
The Parliament of the Commonwealth of Australia

Advisory Report on the Clean Energy Bills and the Steel Transformation Bill 2011

Joint Select Committee on Australia's Clean Energy Future Legislation

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Chair's foreword

Australia is committed to reducing its greenhouse gas emissions by at least 5 per cent below 2000 levels by 2020. This lies at the heart of Australia's efforts to introduce a mechanism to place a value on greenhouse gas emissions and to achieve lasting reductions over time.

The Government has a plan to meet this target, and looks beyond it to meeting longer term commitments to reduce our emissions, which is set out in the 18 bills in the Clean Energy Legislative Package and the Steel Transformation Plan 2011. The design of this plan has been the subject of considerable public debate, discussion and policy development.

Our national commitment to reducing greenhouse gas emissions is based on scientific evidence about the adverse impacts on our planet and our nation of greenhouse gas emissions from human activity, both now and over the longer term. The scientific evidence is well-founded, is accepted and continues to be appropriately tested and scrutinised. However, the committee also noted the many unfounded and unwarranted attacks that have been made on scientists in the course of this debate.

As a nation, we have been discussing this issue for more than 10 years. There have been numerous reviews since 1999, all of which have concluded that a market-based emissions trading scheme is the most appropriate way to act. Other countries are acting, through mechanisms designed to suit their own situations, including through emissions trading schemes.

Since 2009, the Australian Parliament has considered legislation to introduce a mechanism to put a price on greenhouse gas emissions. The bills in the Clean Energy Legislative Package reflect this decade of policy development, consultation and scrutiny.

In considering the Package, the committee has looked at whether it provides a foundation for future economic growth, and for the transition to an economy

based on cleaner and more sustainable energy sources. It is clear that a regulatory framework which provides certainty over time and allows businesses to make the decisions about the most appropriate way to act is preferable to one in which the government directs outcomes.

The consequences of not having a robust and certain framework are clear: businesses will face greater risk associated with making decisions and act – or not act – accordingly. The Package provides the certainty that businesses need to make those decisions to ensure future investment.

It is appropriate that people, in considering a reform, should consider the short-term impacts it will have. The Government has addressed these through a series of measures to provide transitional assistance to emissions-intensive, trade-exposed industries, household assistance to low and middle-income earners, and measures to improve energy efficiency and the development and adoption of new technologies.

Beyond this, the longer term costs of not taking action must also be considered. There are the direct economic consequences of squeezing the task of meeting our 2020 commitment to reducing greenhouse gas emissions into a shorter and shorter timeframe. But further inaction or delay also poses deeper and more long-lasting implications for us all.

There is a clear and real detriment from not tackling the task of greenhouse gas emissions reduction in a coordinated way. It will stifle investment in cleaner energy and energy efficiency, delay the adoption of new technologies and increase the ultimate costs we all must bear. The costs of economic change are greatly reduced when they occur gradually, which the Package proposes.

The impact of delaying investment in our energy sector is real and serious. Individual Australians are now experiencing the costs of not making necessary investment in energy infrastructure due to a lack of certainty on addressing greenhouse gas emissions reduction. They have faced significant increases in electricity prices precisely because we have not taken action, and these impacts will continue. These costs far outstrip any impact of placing a price on greenhouse gas emissions now.

In considering how to meet our commitment to reduce Australia's greenhouse gas emissions, we must ensure that the regulatory framework does this at least cost, in a way which is tailored to the Australian economy and which ensures that transitional costs are minimised. It is also critical that this framework gives clarity and certainty for investors over time, particularly in our critical energy sector.

The committee is confident that the Package delivers these outcomes.

The committee received evidence from a range of businesses, local governments and others who may be covered by the mechanism. While many of these

acknowledged the benefits that would flow from the full range of reforms encompassed by the Package, including the recently passed Carbon Farming Initiative, there was a degree of uncertainty about its application from some groups.

This uncertainty is, to some extent understandable, given the high level of much public discussion and the misconceptions about the reforms that have gained currency. To deal with this, considerable effort is needed in the implementation of the Package to ensure that those covered by it are aware of its impacts, their obligations and the opportunities available to them.

Much has been made about the potential impacts of the Package on the Australian economy and individual households and businesses, and this was reflected in the letters and emails received by the committee. In many cases the claims made about these impacts are overstated, reflecting misunderstandings or the arguments of specific interests.

The Treasury has conducted the most comprehensive modelling exercise undertaken on this issue and its work is to be commended. While the Treasury's work has been scrutinised and criticised from a range of perspectives, and others have attempted to quantify specific impacts based on their own circumstances, no comprehensive alternative has been provided and much of the commentary reflects the policy outcomes sought by specific participants in the debate.

The Treasury estimates that the impact on Australian households will, by and large, be modest, with price increases passed on by business averaging 0.7 per cent in 2012-13. While price impacts in some sectors, such as electricity, will be more significant, the household compensation package is designed to mitigate the impacts on low and middle-income households. Compared with the costs of dealing with the effects of rising sea levels and changes to the suitability of land for agricultural use that will occur under business as usual, these effects are small.

Based on the evidence before it and the material on the public record, the Package represents the most comprehensive, efficient and equitable basis for Australia to meet its commitments to reduce greenhouse gas emissions and move to a clean energy economy. Businesses that are early developers of clean technology have the opportunity to reap significant financial rewards.

On behalf of the committee, I thank those that have given their time to contribute to this inquiry through writing letters and emails, in providing formal submissions and in giving evidence at its hearings.

Anna Burke MP
Chair



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Membership of the Committee

Chair	Ms Anna Burke, MP	
Deputy Chair	Senator Christine Milne	
Members	Mr Adam Bandt, MP	Senator Simon Birmingham
	Mr Darren Cheeseman, MP	Senator Mathias Cormann
	Mr George Christensen, MP	Senator Louise Pratt
	Ms Joanna Gash, MP	Senator Anne Urquhart
	Mr Ed Husic, MP	
	Mr Bernie Ripoll, MP	
	Mr Tony Smith, MP	
	Mr Tony Windsor, MP	

Committee Secretariat

Secretary	Mr Stephen Boyd
Inquiry Secretary	Mr David Monk
Technical Advisor	Mr Simon Writer
Research Officer	Dr Phillip Hilton
Administrative Officer	Ms Natasha Petrovic



Resolution of Appointment

On 13 September 2011 the House of Representatives moved the following resolution. On 14 September 2011 the Senate concurred with the House resolution.

- (1) That a Joint Select Committee on Australia's Clean Energy Future Legislation be appointed to inquire into and report on the provisions of the following bills:
 - (a) Clean Energy 2011;
 - (b) Clean Energy (Consequential Amendments) 2011;
 - (c) Clean Energy (Income Tax Rates Amendments) 2011;
 - (d) Clean Energy (Household Assistance Amendments) 2011;
 - (e) Clean Energy (Tax Laws Amendments) 2011;
 - (f) Clean Energy (Fuel Tax Legislation Amendment) 2011;
 - (g) Clean Energy (Customs Tariff Amendment) 2011;
 - (h) Clean Energy (Excise Tariff Legislation Amendment) 2011;
 - (i) Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment 2011;
 - (j) Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment 2011;
 - (k) Clean Energy (Unit Shortfall Charge – General) 2011;
 - (l) Clean Energy (Unit Issue Charge – Auctions) 2011;
 - (m) Clean Energy (Unit Issue Charge – Fixed Charge) 2011;
 - (n) Clean Energy (International Unit Surrender Charge) 2011;
 - (o) Clean Energy (Charges – Customs) 2011;
 - (p) Clean Energy (Charges – Excise) 2011;
 - (q) Clean Energy Regulator 2011;
 - (r) Climate Change Authority 2011; and
 - (s) Steel Transformation Plan 2011.
- (2) That the committee consist of 14 members, four members of the House of Representatives to be nominated by the Government Whip or Whips, three

members of the House of Representatives to be nominated by the Opposition Whip or Whips, one Greens member, one non-aligned member, two senators to be nominated by the Leader of the Government in the Senate, two senators to be nominated by the Leader of the Opposition in the Senate, and one Greens senator.

- (3) That every nomination of a member of the committee be notified in writing to the President of the Senate and the Speaker of the House of Representatives.
- (4) That the persons appointed for the time being to serve on the committee shall constitute the committee notwithstanding any failure by the Senate or the House of Representatives to appoint the full number of senators or members referred to in this resolution.
- (5) That the committee elect a Government member as its chair.
- (6) That the committee elect a member as its deputy chair who shall act as chair of the committee at any time when the chair is not present at a meeting of the committee, and at any time when the chair and deputy chair are not present at a meeting of the committee the members shall elect another member to act as chair at that meeting.
- (7) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.
- (8) That four members of the committee constitute a quorum of the committee provided that in a deliberative meeting the quorum shall include at least one Government member of either House and one non-Government member of either house.
- (9) That the committee have power to call for witnesses to attend and for documents to be produced.
- (10) That the committee may conduct proceedings at any place it sees fit.
- (11) That the committee have the power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives.
- (12) That the committee report on or before 7 October 2011.
- (13) That the provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.
- (14) That a message be sent to the Senate acquainting it of this resolution and requesting that it concur with the action accordingly.



List of abbreviations

ACCU	Australian carbon credit unit
ACTU	Australian Council of Trade Unions
AMEC	Association of Mining and Exploration Companies
ANEDO	Australian Network of Environmental Defenders' Offices
ANREU	Australian National Registry of Emissions Units
ASX	Australian Securities Exchange
BFVG	Bundaberg Fruit and Vegetable Growers
CDM	Clean development mechanism
CEF	Clean energy future
CEO	Chief Executive Officer
CFI	Carbon Farming Initiative
CFMEU	Construction, Forestry, Mining and Energy Union
CO ₂ -e	Carbon dioxide equivalent
COTA	Council on the Ageing
DCCEE	Department of Climate Change and Energy Efficiency
DIISR	Department of Innovation, Industry, Science and Research
EITE	Emissions intensive trade exposed
EM	Explanatory Memorandum
ETS	Emissions trading scheme
GDP	Gross Domestic Product

GEDO	Greenhouse and Energy Data Officer
IGCC	Investor Group on Climate Change
LNG	Liquid Natural Gas
MPCCC	Multi-Party Committee on Climate Change
NGERS	National Greenhouse and Energy Reporting System
ORER	Office of the Renewable Energy Regulator
OTN	Obligation transfer number
STP Bill	Steel Transformation Plan Bill 2011
TPI	Totally and permanently incapacitated
UNFCCC	United Nations Framework on Climate Change



Recommendations

Recommendation 1

The Senate and the House of Representatives pass the following bills:

- the Clean Energy Bill 2011;
- the other 17 bills in the clean energy package; and
- the Steel Transformation Plan Bill 2011.

Recommendation 2

That the Government examine the proposals made by LPG Australia concerning the treatment of LPG under the mechanism and, where appropriate, refine the provisions to ensure that a carbon price is most efficiently applied to all uses of LPG.

Recommendation 3

That the Department of Sustainability, Environment, Water, Population and Communities proactively and transparently assesses the Green Cooling Association's recommendations such that they may, if appropriate, be given Parliamentary consideration.

Recommendation 4

That the Government intensify its efforts to promote awareness and understanding of the mechanism, including through:

- working with the Clean Energy Regulator to provide information and guidance to liable entities about the mechanism and compliance with it in good time for the start of the mechanism on 1 July 2012;

- working with representative bodies, state, territory and local governments, to inform state, territory and local governments, businesses, community organisations and individuals about:
 - ⇒ the linkages between the mechanism and related initiatives like the Carbon Farming Initiative; and
 - ⇒ opportunities for government support for and investment in clean energy and energy efficiency initiatives.

Introduction

Referral of the bills

- 1.1 On 13 September 2011 the Prime Minister, the Hon Julia Gillard, MP, introduced into the House of Representatives the Clean Energy Bill 2011. This was followed by 17 related bills and the Steel Transformation Plan Bill 2011. The bills were read a second time and the debate on the second reading commenced on 14 September 2011. The bills are described individually in Chapter 2.
- 1.2 On 13 September 2011 the House agreed to establish the Joint Select Committee on Australia's Clean Energy Future Legislation to inquire into and report on the clean energy bills and the Steel Transformation Plan Bill 2011. On 14 September 2011 the Senate concurred with the resolution of appointment.¹
- 1.3 The committee's resolution of appointment calls upon it to report on or before 7 October 2011.

Origins and purpose of the bills

Climate change and the need for action

- 1.4 Climate change and its potential to cause environmental and economic damage have been debated for decades. The level and intensity of public

¹ House of Representatives, *Votes and Proceedings*, No. 65, Tuesday, 13 September 2011, p. 881; Senate, *Journals of the Senate*, No. 51, Wednesday, 14 September 2011, p. 1453.

debate is almost unprecedented. What is clear is that there is overwhelming scientific evidence that human action is contributing to global warming. The Explanatory Memorandum (EM) to the climate change bill states:

The evidence that the world is getting warmer is unequivocal. In Australia and around the globe, 2001 to 2010 was the warmest decade on record. In Australia, each decade since the 1940s has been warmer than the last.²

- 1.5 The risks of not addressing climate change are significant. In 2007, the Prime Ministerial Task Group on Emissions Trading described climate change as 'a global risk management issue.'³ The Task Group noted that 'while there are costs in acting now, the cost of inaction are potentially large for many countries.'⁴ In relation to the potential risks of climate change, the EM states:

If we do not reduce carbon pollution, the world risks serious effects from climate change. Global average temperatures could increase by up to 6.4 degrees Celsius above 1990 temperatures by 2100. Sea levels are estimated to rise by between 0.5 and 1 metre by 2100 from 2000 levels and the acidity of the world's oceans to increase significantly. Cyclones, storms, floods and other extreme weather events are likely to increase in severity or frequency and rainfall patterns around the world to change, making some places drier and other places wetter.⁵

- 1.6 The then Prime Minister the Hon John Howard, MP, stated:

There can be no argument that greenhouse gases are having an impact on the earth's environment.⁶

Pricing carbon to reduce emissions

- 1.7 In recent times there has been a significant public policy debate about the best way to reduce carbon emissions. The Prime Minister, the Hon Julia Gillard, MP, in her second reading speech introducing the Clean Energy

2 Clean Energy Bill 2011 - Explanatory Memorandum, p. 9.

3 Prime Ministerial Task Group on Emissions Trading, *Report of the Task Group on Emissions Trading, 2007*, p. 15.

4 Prime Ministerial Task Group on Emissions Trading, *Report of the Task Group on Emissions Trading, 2007*, p. 15.

5 Clean Energy Bill 2011 - Explanatory Memorandum, p. 9.

6 Prime Ministerial Task Group on Emissions Trading, *Report of the Task Group on Emissions Trading, 2007*, p. 15.

Bill 2011 commented that in addressing climate change, ‘most economists and experts also now agree that the best way is to make polluters pay by putting a price on carbon.’⁷ The EM states that ‘a broad-based carbon price is the most environmentally effective and cheapest way to reduce pollution.’⁸

- 1.8 The adoption of a carbon pricing mechanism has been the subject of thorough and repeated examination. In the late 1990s the Australian Greenhouse Office released papers outlining how a carbon price would work. The EM notes that in 2006 the states and territories released a paper on setting out a proposed design of an Australian emissions trading scheme. Then in 2007 the then Prime Minister the Hon John Howard established the Prime Ministerial Task Group on Emissions Trading. The preferred approach of the Task Group was an emissions trading scheme. The Task Group stated:

The key benefit of emissions trading is its focus on the ultimate environmental objective – namely, reducing emissions to a point that mitigates the effects of climate change. As such, emissions trading may provide greater long-term policy credibility, as the community can see the direct link between the policy instrument and the desired environmental objective.

An emissions trading scheme also possesses more options to link with global developments in a carbon-constrained environment. It can provide the capacity to access abatement opportunities at least cost internationally.⁹

- 1.9 The task group noted that a further benefit of moving to an emissions trading scheme was that ‘the primary policy instrument being used by other countries for carbon pricing is the development of emissions trading schemes.’¹⁰

International commitments

- 1.10 Australia has ratified a number of international climate change agreements. On 30 December 1992 Australia ratified the United Nations Framework Convention on Climate Change. The aim of the Convention is

7 Clean Energy Bill 2011 - Explanatory Memorandum, p. 11.

8 Clean Energy Bill 2011 - Explanatory Memorandum, p. 11.

9 Prime Ministerial Task Group on Emissions Trading, *Report of the Task Group on Emissions Trading, 2007*, p. 48.

10 Prime Ministerial Task Group on Emissions Trading, *Report of the Task Group on Emissions Trading, 2007*, p. 48.

to stabilise greenhouse gas concentrations in the atmosphere ‘at a level that would prevent dangerous anthropogenic interference with the climate system.’¹¹ In particular, Article 4.2(a) of the Convention obligates Australia to ‘adopt national policies and take corresponding measures on the mitigation of climate change, by limiting anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs.’

- 1.11 On 3 December 2007 Australia ratified the Kyoto Protocol to the United Nations Framework Convention on Climate Change. Under the Kyoto Protocol, ‘Australia is committed to restraining its national emissions to an average of 108 per cent of 1990 levels over the first commitment period (2008 to 2012).’¹²
- 1.12 The 2010 Cancun Agreements specify the mitigation pledges made by developed and developing countries in the Copenhagen Accord. The agreements recognise the need to hold any increase in global temperature to below 2 degrees Celsius. The EM states:

Over 85 countries, including both developed and developing economies, have already made pledges to limit their emissions. Together, these countries represent more than 90 per cent of the global economy and are responsible for more than 80 per cent of global emissions.¹³

The Garnaut Review and Update

- 1.13 Professor Ross Garnaut, one of Australia’s most eminent economists, has released a number of reports into the science of climate change and climate change mitigation policy. On 30 September 2008 the Government published *The Garnaut Climate Change Review: Final Report*. In November 2010, Professor Garnaut provided an update to the 2008 Review. In February and March 2011 Professor Garnaut released 8 update papers covering the costs and benefits of climate change action, global emissions trends, transforming rural land use, low emissions technology, transforming the electricity sector and carbon pricing and reducing Australia’s emissions.¹⁴ The final report was delivered to government on 31 May 2011. Professor Garnaut stated:

11 Clean Energy Bill 2011 - Explanatory Memorandum, p. 18.

12 Clean Energy Bill 2011 - Explanatory Memorandum, p. 19.

13 Clean Energy Bill 2011 - Explanatory Memorandum, p. 19.

14 Updates available on <http://www.garnautreview.org.au/update-2011/update-papers.html>

Since the 2008 Review, the science of climate change has been subjected to intense scrutiny and has come through with its credibility intact. Unfortunately, new data and analysis generally are confirming the likelihood that outcomes will be near the midpoints or closer to the bad end of what had earlier been identified as the range of possibilities for human-induced climate change.¹⁵

- 1.14 Professor Garnaut examined the merits of various climate mitigation policies, specifically a market based mechanism versus regulatory or direct action. Professor Garnaut advised that a market mechanism was clearly favourable and more effective than direct action. In particular, the market mechanism is cheaper and provides for the market to respond with innovative approaches to reducing energy use. Professor Garnaut commented that 'once we put the carbon pricing incentives in place, millions of Australians will set to work finding cheaper ways of meeting their requirements and servicing markets.'¹⁶ In relation to direct action policies, Professor Garnaut stated:

We would be damaged in other ways, too, if we sought to do our fair share through direct action. We would rely on the ideas of a small number of politicians and their advisers and confidants. While some of these ideas might be brilliant, in sum they would not be as creative or productive as millions of Australian minds responding to the incentives provided by carbon pricing and a competitive marketplace.

That would not be the end of the costs.

The really big cost would be the entrenchment of the old political culture that has again asserted itself after the late 20th century period of reform. The big rewards in low-emissions investments would go to those who had persuaded the minister or the bureaucrat that their idea was worthy of inclusion in the direct action plan – if not under the government that introduced the direct action policies, then under the governments that followed. That would entrench the return of the influence of the old Australian political culture in other areas of economic policy.¹⁷

15 Garnaut Climate Change Review Update 2011, *Australia in the Global Response to Climate Change, Summary*, 31 May 2011, p. 2.

16 Garnaut Climate Change Review Update 2011, *Australia in the Global Response to Climate Change, Summary*, 31 May 2011, p. 12.

17 Garnaut Climate Change Review Update 2011, *Australia in the Global Response to Climate Change, Summary*, 31 May 2011, p. 12.

Previous parliamentary inquiries

- 1.15 As previously noted, the science of climate change and climate change mitigation policy have been subject to extensive review and inquiry. The level of review is unprecedented. The Prime Minister the Hon Julia Gillard, MP, noted that 'the carbon-pricing mechanism which begins its course through our parliament today is the product of years of public policy discussion and development.'¹⁸
- 1.16 Since 1992 the Commonwealth Parliament has conducted 35 committee inquiries (excluding this one) into climate change related issues. These inquiries are listed below.
- House of Representatives Standing Committee on Environment, Recreation and the Arts: A review of Audit Report No. 32 1992-93 – an efficiency audit of the Implementation of an Interim Greenhouse Response (May 1994).
http://www.aph.gov.au/house/committee/reports/1994/1994_PP92.pdf
 - House of Representatives Standing Committee on Environment, Recreation and the Arts: Inquiry into the regulatory arrangements for trading in greenhouse gas emissions (25 August 1998).
<http://www.aph.gov.au/house/committee/envIRON/greenhse/gasrpt/contents.htm>
 - Senate Environment, Communications, Information Technology and the Arts References Committee: Renewable Energy (Electricity) Bill 2000; Renewable Energy (Electricity) (Charge) Bill 2000 (August 2000).
http://www.aph.gov.au/Senate/committee/ecita_ctte/completed_inquiries/1999-02/reb2000/report/index.htm
 - Joint Standing Committee on Treaties: Report 38 The Kyoto Protocol – Discussion Paper (April 2001).
<http://www.aph.gov.au/house/committee/jsct/kyoto/kyoto.htm>
 - Senate Environment, Communications, Information Technology and the Arts Legislation Committee: Provisions of Inquiry into the Renewable Energy (Electricity) Amendment Bill 2002 (2 December 2002).
http://www.aph.gov.au/Senate/committee/ecita_ctte/completed_inquiries/2002-04/renewable_energy/index.htm

18 The Hon Julia Gillard, MP, Prime Minister, *House of Representatives Hansard*, 13 September 2011, p. 1.

- Senate Environment, Communications, Information Technology and the Arts Legislation Committee: Kyoto Protocol Ratification Bill 2003 [No.2] (25 March 2004).
http://www.aph.gov.au/Senate/committee/ecita_ctte/completed_inquiries/2002-04/kyoto/index.htm
- Senate Environment, Communications, Information Technology and the Arts Legislation Committee: Provisions of the Renewable Energy (Electricity) Amendment Bill 2006 (9 May 2006).
http://www.aph.gov.au/Senate/committee/ecita_ctte/completed_inquiries/2004-07/renewableenergy/report/index.htm
- Senate Environment, Communications, Information Technology and the Arts References Committee: Budgetary and environmental implications of the Government's Energy White Paper (16 May 2005).
http://www.aph.gov.au/Senate/committee/ecita_ctte/completed_inquiries/2004-07/energy_white_paper/report/index.htm
- House Standing Committee on Environment and Heritage: Inquiry into sustainable cities (12 September 2005).
<http://www.aph.gov.au/house/committee/envIRON/cities/report.htm>
- Senate Economics Legislation Committee: Inquiry into the provisions of the Energy Efficiency Opportunities Bill 2005 (10 November 2005):
http://www.aph.gov.au/senate/committee/economics_ctte/completed_inquiries/2004-07/energy/report/index.htm
- House Standing Committee on Environment and Heritage: Inquiry into a Sustainability Charter, 'Sustainability for survival: creating a climate for change' (5 September 2007).
<http://www.aph.gov.au/house/committee/envIRON/charter/report.htm>
- Senate Standing Committee on Environment, Communications, Information Technology and the Arts: National Greenhouse and Energy Reporting Bill 2007 [Provisions] (6 September 2007).
http://www.aph.gov.au/Senate/committee/ecita_ctte/completed_inquiries/2004-07/greenhouse/report/index.htm
- Senate Standing Committee on Economics: Inquiry into the National Market Driven Energy Efficiency Target Bill 2007 [2008] and Renewable Energy Legislation Amendment (Renewable Power Percentage) Bill 2008 (30 May 2008).
http://www.aph.gov.au/senate/committee/economics_ctte/nmdeet_08/report/index.htm

- Joint Standing Committee on Treaties: Report 100: Review into treaties tabled on 25 June 2008 (2) – Kyoto Protocol to the United Nations Framework Convention on Climate Change (19 March 2009).
<http://www.aph.gov.au/house/committee/jsct/25june2008/report2.htm>
- House Standing Committee on Primary Industries and Resources Inquiry into the Draft Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill, 'Down under: Greenhouse Gas Storage' (15 August 2008).
<http://www.aph.gov.au/house/committee/pir/exposedraft/report.htm>
- Senate Standing Committee on Environment, Communications and the Arts: Inquiry into Save Our Solar (Solar Rebate Protection) Bill 2008 (25 August 2008).
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- Senate Standing Committee on Economics: Inquiry into the Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill 2008 & 3 related bills (23 September 2008).
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http://www.aph.gov.au/Senate/committee/eca_ctte/renewable_energy/report/index.htm
- Senate Standing Committee on Rural and Regional Affairs and Transport: Inquiry into Climate Change and the Australian Agricultural Sector (4 Dec 2008).
http://www.aph.gov.au/senate/committee/rrat_ctte/climate_change/report/index.htm

- Senate Select Committee on Fuel & Energy (30 August 2010).
http://www.aph.gov.au/Senate/committee/fuelenergy_ctte/final_report/index.htm
- Senate Standing Committee on Economics: Inquiry into the Exposure draft of the legislation to implement the Carbon Pollution Reduction Scheme (16 April 2009):
http://www.aph.gov.au/senate/committee/economics_ctte/cprs_09/report/index.htm
- Senate Finance and Public Administration: Inquiry into the National Greenhouse and Energy Amendment Bill 2009 (7 May 2009).
http://www.aph.gov.au/senate/committee/fapa_ctte/national_greenhouse_energy_reporting/report/index.htm
- Senate Economics Legislation Committee: Inquiry into the Carbon Pollution Reduction Scheme Bill and related bills (15 June 2009).
http://www.aph.gov.au/senate/committee/economics_ctte/cprs_2_09/report/index.htm
- Senate Select Committee on Climate Policy (15 June 2009).
http://www.aph.gov.au/Senate/committee/climate_ctte/report/index.htm
- Senate Economics Legislation Committee: Inquiry into the Renewable Energy (Electricity) Amendment Bill 2009 and a related bill (12 August 2009).
http://www.aph.gov.au/senate/committee/economics_ctte/renewable_energy_09/report/index.htm
- House Standing Committee on Climate Change, Water, Environment and the Arts: Inquiry into climate change and environmental impacts on coastal communities “Managing our coastal zone in a changing climate: the time to act is now” (26 October 2009).
<http://www.aph.gov.au/house/committee/ccwea/coastalzone/report.htm>
- Senate Education, Employment and Workplace relations Committee: Inquiry into the Effects of Climate Change on Training and Employment Needs (discharged 23 November 2009).
http://www.aph.gov.au/Senate/committee/eet_ctte/employ_climate/report/index.htm
- House Standing Committee on Primary Industries and Resources: Inquiry into the role of government in assisting Australian farmers to adapt to the impacts of climate change (15 March 2010).

<http://www.aph.gov.au/house/committee/pir/australianfarmers/report.htm>

- Senate Economics Legislation Committee: Inquiry into the Safe Climate (Energy Efficient Non-Residential Buildings Scheme) Bill 2009 (17 March 2010).
http://www.aph.gov.au/senate/committee/economics_ctte/energy_efficient_buildings_09/report/index.htm
- Senate Finance and Public Administration Committee: Native Vegetation Laws, Greenhouse Gas Abatement and Climate Change Measures (30 April 2010).
http://www.aph.gov.au/senate/committee/fapa_ctte/climate_change/report/index.htm
- Senate Environment and Communications Legislation Committee: Carbon Credits (Carbon Farming Initiative) Bill 2011, Carbon Credits (Consequential Amendments) Bill 2011 and the Australian National Registry of Emissions Units Bill 2011 (27 May 2011).
http://www.aph.gov.au/senate/committee/ec_ctte/carbon_farming/report/index.htm
- House of Representatives Standing Committee on Climate Change, Environment and the Arts: Advisory Report on Bills Referred 24 March 2011 [CFI Bills] (23 May 2011).
<http://www.aph.gov.au/house/committee/ccea/24March2011/report.htm>
- House Standing Committee on Climate Change, Environment and the Arts Inquiry into Australia's biodiversity in a changing climate (ongoing).
<http://www.aph.gov.au/house/committee/ccea/ccbio/index.htm>
- Senate Select Committee on Scrutiny of New Taxes Inquiry into Carbon Tax Pricing Mechanisms (ongoing).
http://www.aph.gov.au/Senate/committee/scrutinynewtaxes_ctte/index.htm

Exposure draft legislation consultation

- 1.17 On 28 July 2011 the government released the clean energy bills and the Steel Transformation Plan Bill 2011 as exposure drafts for public comment. The Department of Climate Change and Energy Efficiency (DCCEE) received 326 submissions and has published 267 non confidential submissions. The committee took account of these submissions in the

course of its inquiry. As a result of exposure draft consultation, the bills were amended to take account of concerns raised with DCCEE about the content of the draft bills. Appendix D shows the amendments that were made as a result of the consultation.

Objectives and scope of the inquiry

- 1.18 The key objective of the inquiry is to examine the technical adequacy of the bills and their ability to deliver the policy intent. In addition, the committee sought to identify any unintended consequences, and where possible propose recommendations that could enhance the legislation or improve the implementation package.
- 1.19 The purpose of the committee is not to re-examine the validity or otherwise of climate science. The committee accepts that global warming is occurring because of human activity and there is a need for policy mitigation in line with Australia's international commitments to reduce its greenhouse gas emissions.
- 1.20 The committee scrutinised the 19 bills as a group. This is similar to the House debating the bills in cognate. Through the submission and hearing process, the committee scrutinised key feature of the legislative package and has reported on these matters in this report.

Conduct of the inquiry

- 1.21 On 13 September 2011 the House of Representatives established the committee and on 14 September the Senate concurred with the resolution of appointment.
- 1.22 On 15 September the committee met for the first time, electing the Chair and Deputy Chair and setting out its work program. On the same day, the Chair issued a media release outlining the inquiry and seeking submissions by 22 September.
- 1.23 The inquiry was advertised in the *Weekend Australian* on 17 September and in the *Australian Financial Review* on 19 September. In addition, information about the inquiry was posted on the committee's webpage at: <http://www.aph.gov.au/house/committee/jscacefl/index.htm>

- 1.24 Evidence was taken at public hearings held in Canberra, Melbourne and Sydney. A list of witnesses appearing at the hearings can be found at Appendix B. As part of these hearings, the committee conducted telephone conferences with organisations in regional locations in Queensland and Western Australia.
- 1.25 Copies of the submissions and transcripts of evidence are available from the committee's website at:
<http://www.aph.gov.au/house/committee/jscacefl/index.htm>
- 1.26 Four exhibits were received which are listed at Appendix C.

Submissions and correspondence

- 1.27 Seventy submissions were received which are listed at Appendix A.
- 1.28 A large amount of correspondence was received by the committee. These items were not received as submissions to the inquiry because they did not address the actual legislation being considered. The correspondence was read and noted. The majority of the correspondence questioned the following issues:
- The legitimacy of the science behind climate change and whether it is due to human action;
 - The legitimacy of the government to introduce the legislation;
 - The impact of the carbon 'tax' on individuals and the economy; and
 - Why should Australia go it alone on introducing measures to reduce carbon pollution putting us at a claimed competitive disadvantage?
- 1.29 The committee and all major parties in Australia accept the science of global warming and that human activity is contributing to climate change. The real debate is how to respond to the impact of carbon pollution. The majority of witnesses at the hearing accepted the science and the need for action to reduce Australia's emission levels. The Chief Scientist for Australia was asked about the threat posed by rising carbon emissions. Mr Chubb stated:
- The latest information I have seen shows that the CO₂ levels are high and that the rate of accumulation is accelerating. The scientists who study this would argue that it is getting to the point where something has to be done quickly in order to cap them at least and start to have them decrease over a sensible period of time. You could easily argue that it is urgent and that something needs to be done because of the high level presently and the

accelerating accumulation presently. We do need to do something.¹⁹

- 1.30 The committee did not explore the legitimacy of the introduction of the clean energy bills but all parties have committed to a 5% reduction target in carbon emissions and all accept that action is required to be taken. The Government's approach to dealing with climate change has been consistent. It has always sought to introduce an emission trading scheme. However, what has changed is the nature of the parliament and, as circumstances change, flexibility is required. The Government has tried to get an emissions trading scheme through the Senate on two separate occasions. The Prime Minister the Hon Julia Gillard, MP, made the following response regarding her decisions to proceed with the introduction of an emissions trading scheme:

Now, I did say during the last election campaign - I promised that there would be no carbon tax. That's true and I've walked away from that commitment and I'm not going to try and pretend anything else. I also said to the Australian people in the last election campaign that we needed to act on climate change. We needed to price carbon and I wanted to see an emissions trading scheme. Then we had the election and the 17 days that were and we formed this minority government. Now, if I'd been leading a majority government I would have been getting on with an emissions trading scheme. It's what I promised the Australian people. As it is, in this minority parliament, the only way I can act on climate change by pricing carbon is to work with others and so I had a really stark choice. Do I act or not act? Well, I've chosen to act and we will have a fixed price, like a carbon tax, for a period and then get to exactly what I promised the Australian people, an emissions trading scheme. Now, when I said during the election campaign there would be no carbon tax I didn't intend to mislead people. What I believed then is an emissions trading scheme is right for this country. I believe that now and we will get to that emissions trading scheme.²⁰

- 1.31 The Opposition has also acknowledged that when circumstances change then it is a responsible course of action to change their opinions as Mr Abbott conceded in an interview with Laurie Oakes in 2005:

19 Professor Ian Chubb, AC, Chief Scientist for Australia, *Committee Hansard*, Canberra, 26 September 2011, p. 11.

20 The Hon Julia Gillard, MP, *Transcript of Interview with Tony Jones Q&A*, 14 March 2011 <<http://www.pm.gov.au/press-office/transcript-interview-tony-jones-qa>>

TONY ABBOTT: Well, Laurie, when I made that statement, in the election campaign, I had not the slightest inkling that there would ever be any intention to change this. **But obviously when circumstances change, governments do change their opinions, and that is actually the responsible course of action.**²¹

- 1.32 The committee received evidence confirming that the carbon price will be met by companies and not individuals. Contrary to the majority of concern from submitters, older Australians on pensions will not bear the brunt of any tax but will be fully compensated for any flow through costs. The Council on the Ageing (COTA) commented that overall, it 'supports the initiatives outlined in the legislation.'²² COTA stated:

The compensation for pensioners through the Clean Energy Supplement should more than compensate them for the increases in costs as a result of the carbon pricing regime and the commitment to index it and review it regularly should ensure that it maintains its value. Designating it as a supplement rather than simply increasing the basic pension is important as this mean it should not be included in calculations for rent for public housing.²³

Electricity pricing and the carbon pricing mechanism

Australia's electricity prices have been rising in recent years. In the main, these cost increases have been caused by the rising costs of transmitting and distributing electricity, particularly through the cost of infrastructure construction and upgrades of electricity transmission and distribution networks.

Placing a price on greenhouse gas emissions will affect electricity prices only by affecting the costs of electricity generation. As the bulk of Australia's electricity is produced by burning fossil fuels, electricity generation will be exposed to a carbon price, and this is one of the important drivers of investment in new cleaner energy sources and in energy efficiency. However, the carbon price will be a relatively small impact on future electricity increases, when compared with increasing network costs.²⁴

21 The Hon Tony Abbott, MP, Interview with Mr Laurie Oakes, 17 April 2005, <http://sgp1.paddington.ninemsn.com.au/sunday/political_transcripts/article_1761.asp?s=1>

22 Council on the Ageing, *Submission 60*, p. 1.

23 Council on the Ageing, *Submission 60*, p. 2.

24 The Treasury, (2011) *Strong growth, low pollution – modelling a carbon price* pp.123-124. The Treasury, (2011) *Strong growth, low pollution – modelling a carbon price: Update* p.11.

Across Australia, the carbon price is expected to increase retail electricity prices by 10 per cent on average in 2012-13, or \$3.30 per week, which has been factored into the level of household assistance.²⁵

1.33 The impacts on business are projected to be minimal. Indeed, the Treasury noted that:

Pricing carbon will have much less of an impact on production patterns than we are currently experiencing from the mining boom, and much less than we'd expect from technological advancement and demographic change.²⁶

1.34 Many businesses will be able to pass on their costs to customers. While there will be an impact on some businesses who cannot pass on these costs, that impact will be offset by the numerous measures to protect jobs, fund research to create clean technologies and ensure Australia's long term economic growth, reflecting ongoing economic growth.²⁷

1.35 The committee received a considerable amount of evidence about the action currently being taken around the world to tackle climate change. More than 85 countries have renewable energy targets either legislated or planned. China is now the world's largest manufacturer of solar panels and wind turbines, and the US is moving to regulate carbon pollution, including from large industrial facilities.²⁸ The Australian Government's report, *Securing a clean energy future* stated:

Many countries have put a price on carbon pollution, including through emissions trading schemes that create economic incentives for industry to reduce pollution. Some policies have been in place for many years. Thirty-one European countries - including the United Kingdom, Germany and France - have a price on carbon pollution through emissions trading schemes. New Zealand started emissions trading in 2008. Carbon taxes are also in place in the United Kingdom, India, Switzerland, Denmark,

25 Australian Government, *Securing a clean energy future: The Australian Government's Climate Change Plan*, 2011, p. 47.

26 The Treasury, (2011) *Strong growth, low pollution – modelling a carbon price: Overview* p. 7.

27 Australian Government, *Securing a clean energy future: The Australian Government's Climate Change Plan*, 2011, p. 23; The Treasury, (2011) *Strong growth, low pollution – modelling a carbon price: Update* p. 7.

28 Australian Government, *Securing a clean energy future: The Australian Government's Climate Change Plan*, 2011, p. 16.

Finland, Norway, Sweden, the Netherland, Costa Rica and Ireland.²⁹

- 1.36 The report, *Securing a clean energy future*, noted that the Productivity Commission has indentified over 1000 climate change policies in eight key economies, including Australia. These countries 'comprise over half of the world economy and are among Australia's top trading partners.'³⁰

Report structure

- 1.37 Chapter 2 provides an overview of the 19 bills comprising the clean energy bills and the Steel Transformation Plan Bill 2011.
- 1.38 Chapter 3 provides further detail and review of the policy behind the bills and addresses some of the misconceptions that arose during the inquiry.
- 1.39 Chapter 4 examines specific matters in the bills which were key discussion topics during the hearings.

29 Australian Government, *Securing a clean energy future: The Australian Government's Climate Change Plan*, 2011, p. 16.

30 Australian Government, *Securing a clean energy future: The Australian Government's Climate Change Plan*, 2011, p. 16.

Overview of the clean energy legislative package and the steel transformation plan

- 2.1 On 10 July 2011, the Government announced that it would implement a carbon pricing mechanism (the mechanism) in *Securing a clean energy future: the Australian Government's climate change plan*.¹ At the same time, the Government announced assistance to the Australian steel industry, through the steel transformation plan.

The carbon pricing mechanism

- 2.2 The mechanism will place a price on each tonne of greenhouse gases emitted by a business or other entity covered by it (a 'carbon price'). It is a cap-and-trade emissions trading scheme which will commence on 1 July 2012. For the first three years, the carbon price will be fixed, and from 1 July 2015, the price will be determined by the market.
- 2.3 The mechanism is to be implemented by the clean energy legislative package, which is made up of 18 bills. These bills may be categorised as follows:

¹ Australian Government, *Securing a clean energy future: The Australian Government's Climate Change Plan*, 2011.

Table 1.1 The Clean Energy Bill 2011 and related bills

Bill type	Provisions
Main bill	<p>The Clean Energy Bill 2011 creates the mechanism. It sets out the structure of the mechanism and process for its introduction. These include:</p> <ul style="list-style-type: none"> ■ entities and emissions that are covered by the mechanism; ■ entities' obligations to surrender eligible emissions units; ■ limits on the number of eligible emissions units that will be issued; ■ the nature of carbon units; ■ the allocation of carbon units, including by auction and the issue of free units; ■ mechanisms to contain costs, including the fixed charge period and price floors and ceilings; ■ linking to other emissions trading schemes; ■ assistance for emissions-intensive trade-exposed activities and coal-fired electricity generators; ■ monitoring, investigation, enforcement and penalties; ■ administrative review of decisions; and ■ reviews of aspects of the mechanism over time.
Statutory bodies	<p>The Clean Energy Regulator Bill 2011 sets up the Clean Energy Regulator (the Regulator), which is a statutory authority that will administer the mechanism and enforce the law.</p> <p>The responsibilities of the Regulator include:</p> <ul style="list-style-type: none"> ■ providing education on the mechanism, particularly about the administrative arrangements of the mechanism; ■ assessing emissions data to determine each entity's liability; ■ operating the Australian National Registry of Emissions Units (the Registry); ■ monitoring, facilitating and enforcing compliance with the mechanism; ■ allocating units including freely allocated units, fixed charge units and auctioned units; ■ applying legislative rules to determine if a particular entity is eligible for assistance in the form of units to be allocated administratively, and the number of other units to be allocated; ■ administering the National Greenhouse and Energy Reporting System (NGERS), the Renewable Energy Target (RET) and the Carbon Farming Initiative (CFI); and ■ accrediting auditors for the CFI and NGERS.
	<p>The Climate Change Authority Bill 2011 sets up the Climate Change Authority (the Authority), which will be an independent body that provides the Government with expert advice on key aspects of the mechanism and the Government's climate change mitigation initiatives.</p> <p>The Government will remain responsible for carbon pricing policy decisions.</p> <p>This bill also sets up the Land Sector Carbon and Biodiversity Board which will advise on key initiatives in the land sector.</p>

Source Clean Energy Bill 2011 – Explanatory Memorandum pages 24-26

Table 1.1 The Clean Energy Bill 2011 and related bills (cont'd)

Bill type	Provisions
Consequential amendments	<p>The Clean Energy (Consequential Amendments) Bill 2011 makes consequential amendments to ensure:</p> <ul style="list-style-type: none"> ■ NGERS supports the mechanism; ■ the Registry covers the mechanism and the CFI; ■ the Regulator covers the mechanism, CFI, the Renewable Energy Target and NGERS; ■ the Regulator and Authority are set up as statutory agencies and regulated by public accountability and financial management rules; ■ that emissions units and their trading are covered by laws on financial services; ■ that activities related to emissions trading are covered by laws on money laundering and fraud; ■ synthetic greenhouse gases are subject to an equivalent carbon price applied through existing regulation of those substances; ■ the Regulator can work with other regulatory bodies, including the Australian Securities and Investments Commission (ASIC), the Australian Competition and Consumer Commission (ACCC) and the Australian Transaction Reporting and Analysis Centre (Austrac); ■ the taxation treatment of emissions units for the purposes of GST and income tax is clear; and ■ the Conservation Tillage Refundable Tax Offset is established.
Procedural bills	<p>Those elements of the mechanism which oblige a person to pay money are implemented through separate bills that comply with the requirements of section 55 of the <i>Constitution</i>.</p> <p>These bills are the Clean Energy (Unit Shortfall Charge—General) Bill 2011, the Clean Energy (Unit Issue Charge – Fixed Charge) Bill 2011, the Clean Energy (Unit Issue Charge – Auctions) Bill 2011, the Clean Energy (Charges—Excise) Bill 2011, the Clean Energy (Charges—Customs) Bill 2011, the Clean Energy (International Unit Surrender Charge) Bill 2011, the Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011 and the Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011.</p>
Related bills	<p>Other elements of the Government’s climate change plan are being implemented through other legislation. These are:</p> <ul style="list-style-type: none"> ■ the Clean Energy (Excise Tariff Legislation Amendment) Bill 2011 and the Clean Energy (Customs Tariff Amendment) Bill 2011, which imposes an effective carbon price on aviation and non-transport gaseous fuels through excise and customs tariffs; ■ the Clean Energy (Fuel Tax Legislation Amendment) Bill 2011, which reduces the business fuel tax credit entitlement of non-exempted industries for their use of liquid and gaseous transport fuels, in order to provide an effective carbon price on business through the fuel tax system; and ■ the Clean Energy (Household Assistance Amendments) Bill 2011, Clean Energy (Tax Laws Amendments) Bill 2011 and the Clean Energy (Income Tax Rates Amendments) Bill 2011, which will implement the household assistance measures announced by the Government on 10 July 2011. These bills amend relevant legislation to provide payment increases for pensioners, allowees and family payment recipients and provide income tax cuts and establish new supplements for low- and middle-income households.

Description of the clean energy bills

Clean Energy Bill 2011

2.4 The Clean Energy Bill 2011 will create the mechanism and provides for the way in which it is set up and will work over time. It also provides for the obligations of entities covered by the mechanism and its administration by the Regulator.

The mechanism

2.5 The mechanism is to start on 1 July 2012, after which entities covered by it – including businesses, government agencies and other bodies – will pay for each tonne of carbon dioxide equivalent (CO₂-e) greenhouse gas pollution they emit each year.

2.6 The mechanism is to be implemented in two stages:

- for the first three years, the price for each tonne CO₂-e of greenhouse gas emissions will be fixed. The price will start at \$23 per tonne, rising by 2.5 per cent per year, allowing for inflation of 2.5 per cent per year; and
- from 1 July 2015, the mechanism will shift to a flexible cap and trade emissions trading scheme, where the price will be set by the market.

Pollution caps²

2.7 After 1 July 2015, the Government will set an annual cap on Australia's annual greenhouse gas emissions, which will have limits on individual sectors, firms or facilities. The cap will be set by issuing a fixed number of carbon units each year. This will be one of the main ways Australia meets its pollution targets.

Table 1.2 Timeline for setting pollution caps

Deadline	Pollution cap announced for financial year(s) beginning:
31 May 2014	2015, 2016, 2017, 2018 and 2019
30 June 2016	2020
30 June 2017	2021
Pollution caps will continue to be set annually	

Source *Clean Energy Bill 2011 – Explanatory Memorandum, page 31*

2 See Clean Energy Bill 2011 – Explanatory Memorandum, Chapter 2.

- 2.8 If no caps are set by the minister, then the Clean Energy Bill 2011 provides that default caps will apply. These are designed to ensure that Australia meets its international obligation to reduce national emissions by at least five per cent below 2000 levels by 2020.
- 2.9 Some of the carbon units issued each year are to be sold by the Government at auction.³ Others are to be allocated as free carbon units to businesses under the jobs and competitiveness program or as assistance to energy generators.⁴ People will be able to buy and sell the carbon units they have acquired, creating market for carbon units. This is:
- designed to ensure the reductions in pollution under the carbon price are achieved at the lowest cost to the economy: firms will buy units if they cannot reduce their pollution for less than the cost of the units.⁵
- 2.10 The Clean Energy Bill 2011 requires the Authority to make recommendations to the Government on pollution caps and on any national emissions trajectory or 'carbon budget', with the first recommendations due by February 2014.

Price ceilings and floors⁶

- 2.11 Under the Clean Energy Bill 2011, price ceilings and floors, intended to avoid price spikes or plunges, are to apply from 1 July 2015 for three years (that is, the first three flexible charge years):
- a price ceiling will be set \$20 higher than the expected international carbon price at the start of the flexible price period (1 July 2015); and
 - price floor will mean that the carbon price cannot fall any lower than \$15 a tonne in 2015-16.

Both the price ceiling and the price floor will increase gradually each year. The Clean Energy Bill 2011 provides that the Authority is to review the role of the price ceiling and price floor in 2017.

3 See Clean Energy Bill 2011 – Explanatory Memorandum, Chapter 3.

4 See Clean Energy Bill 2011 – Explanatory Memorandum, Chapters 5 and 6.

5 Clean Energy Bill 2011 – Explanatory Memorandum, p. 30.

6 See Clean Energy Bill 2011 – Explanatory Memorandum, Chapter 3.

Coverage of the carbon price⁷

2.12 The mechanism creates a liability for greenhouse gas pollution for entities that have:

- facilities that emit 25,000 tonnes CO₂-e or more of greenhouse gas pollution per annum;
- landfill facilities that emit 10,000 tonnes CO₂-e or more (provided that they are within a specified distance of landfills that emit 25,000 tonnes CO₂-e or more);

or are

- large users of natural gas, and
- natural gas suppliers (including retailers).

2.13 The measurement of greenhouse gas pollution is done through NGERS, which has been in place since 2007. The Clean Energy (Consequential Amendments) Bill 2011 makes some amendments to the *National Greenhouse and Energy Reporting Act 2007* to integrate NGERS with the mechanism.

2.14 The Clean Energy Bill 2011 provides for the specific treatment of greenhouse gas pollution embodied in natural gas. It provides that facilities that consume large volumes of natural gas are covered by the mechanism, and that liability for other emissions of natural gas from the use of natural gas supplied to small-to medium-sized customers is borne by the natural gas supplier, unless an obligation transfer number (OTN) is quoted.⁸

2.15 The Clean Energy Bill 2011 also recognises that businesses may structure their affairs in various ways. Provision is made for the reallocation of liability within joint ventures (through the provisions on mandatory and declared designated joint ventures) and within corporate groups (through liability transfer certificates).⁹

Greenhouse gas pollution covered by the mechanism¹⁰

2.16 The mechanism will cover four of the six greenhouse gases counted under the Kyoto Protocol – carbon dioxide, methane, nitrous oxide and

7 See Clean Energy Bill 2011 – Explanatory Memorandum, Chapter 1.

8 See Clean Energy Bill 2011 – Explanatory Memorandum, paragraphs 1.124 -1.207.

9 See Clean Energy Bill 2011 – Explanatory Memorandum, paragraphs 1.60-1.113.

10 See Clean Energy Bill 2011 – Explanatory Memorandum, Chapter 1.

perfluorocarbon emissions from the aluminium sector. The other greenhouse gases counted under the Kyoto Protocol (hydrofluorocarbons and sulphur hexafluoride) as well as other perfluorocarbon emissions will face an equivalent carbon price through the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*. Amendments to apply an equivalent carbon price to synthetic greenhouse gases are set out in the consequential amendments bill.

2.17 The mechanism covers greenhouse gas emissions from stationary energy, non-legacy waste, industrial processes and fugitive emissions (other than from decommissioned coal mines).

2.18 The mechanism does not cover emissions from fuels subject to excise or customs, combustion of biomass, biofuels or biogas, agriculture, emissions from land (other than covered landfills), fugitive emissions from decommissioned coal mines, legacy emissions from landfill facilities, closed landfill facilities, synthetic greenhouse gases and those emissions defined as ‘scope 2’ and ‘scope 3’ emissions under the *National Greenhouse and Energy Reporting Act 2007*.

2.19 Under the Package transport fuels are treated differently to other emissions. Coverage may be summarised as follows:

Table 1.3 Treatment of transport fuels

A carbon price will be applied to:	A carbon price will not apply to:
Domestic aviation	Fuel used by households for transport
Domestic shipping	Light on-road commercial vehicles
Rail transport	Ethanol, biodiesel and renewable diesel
Off-road transport use of liquid and gaseous fuels (except in agriculture, forestry, fisheries)	Gaseous fuels used for on-road transport
	Off-road fuel use by the agriculture, forestry and fishing industries
Non-transport use of liquid and gaseous fuels	Transport fuels when used as lubricants and solvents or in other ways that do not result in emissions

Source *Clean Energy Bill 2011 – Explanatory Memorandum, page 35*

2.20 Where an effective carbon price applies to transport fuels, it will be applied through changes in fuel tax credits or changes in excise. The changes will be calculated to have the same price effect as coverage by the mechanism and will be adjusted periodically to ensure the effective carbon price on transport fuels aligns with the price under the mechanism.

- 2.21 The Government has announced that it intends to apply an effective carbon price to heavy on-road transport from 1 July 2014, but this is not part of the bills being considered by the committee.
- 2.22 The Clean Energy Bill 2011 provides that large users of specified transport fuels may, in certain circumstances, opt into coverage by the mechanism through an Opt-in Scheme, which will start on 1 July 2013. The details of the Opt-in Scheme will be set out in regulations.

Carbon units¹¹

- 2.23 Each carbon unit will represent one tonne CO₂-e of pollution. A unit is an item of personal property which may be sold or otherwise transmitted to other persons. Ownership of units is determined by reference to the Registry, and the person in whose name the unit is registered is the legal owner of the account. The bill makes provision for correcting defects in title.
- 2.24 The mechanism also allows for the use of other forms of units in specified circumstances, including Australian carbon credit units (ACCUs) created under the Carbon Farming Initiative and eligible international units.

Assessing and meeting liabilities¹²

- 2.25 Under the Clean Energy Bill 2011, liable entities must either make a payment for emissions or surrender an equivalent number of units.
- 2.26 If a liable entity does not surrender any units or an insufficient number to meet its liability, then it will become liable for a shortfall charge. Those who choose to pay, or who are liable for, a shortfall charge will pay a premium above the value of the unit.
- 2.27 Generally, liability will be determined by reference to the previous year's NGERS report for the entity concerned. However, liable entities may choose to estimate their liability.
- 2.28 In the fixed charge period, there is a provisional payment and surrender in June of the relevant financial year, with the remaining liability being met in the following February. In the fixed charge period, units cannot be banked to meet future liabilities.

11 See Clean Energy Bill 2011 – Explanatory Memorandum, Chapter 3.

12 See Clean Energy Bill 2011 – Explanatory Memorandum, Chapter 4.

- 2.29 In the flexible charge period, payment and surrender must occur by February following the relevant financial year. Units can be banked to meet future liabilities.

Jobs and competitiveness program¹³

- 2.30 The jobs and competitiveness program is intended to provide transitional assistance to emissions-intensive, trade-exposed industries. The Clean Energy Bill 2011 - Explanatory Memorandum says:

Without appropriate assistance arrangements, applying constraints on carbon pollution in Australia before other countries could risk 'carbon leakage' – activities could be relocated from Australia to countries where those activities may not be subject to comparable carbon constraints. Carbon leakage is not in Australia's interests – either from an environmental or an economic point of view. The Jobs and Competitiveness Program is designed to reduce this risk.¹⁴

- 2.31 Assistance will be provided through allocations of free carbon units according to arrangements that are to be set out in regulations. The Government has announced that draft regulations are to be released for consultation by the end of September 2011.
- 2.32 The Productivity Commission will review assistance under the program.

Energy Security Fund and coal-fired electricity generation¹⁵

- 2.33 The Clean Energy Bill 2011 provides for the setting up of an Energy Security Fund, which will "smooth the transition and maintain energy security".¹⁶ This Fund will incorporate:
- transitional assistance to highly emissions-intensive coal-fired power stations, which will come with conditions to ensure security of supply and transparent information on emissions reduction efforts; and
 - the potential for payments for the closure of around 2,000 megawatts (MW) of very highly emissions-intensive coal fired generation capacity by 2020, which is intended to start the replacement of polluting electricity generation complexes.

13 See Clean Energy Bill 2011 - Explanatory Memorandum, Chapter 5.

14 Clean Energy Bill 2011 - Explanatory Memorandum, p. 35.

15 See Clean Energy Bill 2011 - Explanatory Memorandum, Chapter 6.

16 Clean Energy Bill 2011 - Explanatory Memorandum, p. 36.

- 2.34 The Government has announced that draft regulations on assistance to generators are to be released for consultation by the end of September 2011.
- 2.35 The Productivity Commission will review assistance under the energy security arrangements.

International linking¹⁷

- 2.36 The Clean Energy Bill 2011 provides that the mechanism will be linked to international carbon markets from 1 July 2015. The Clean Energy Bill 2011 - Explanatory Memorandum says:

Australian businesses will be able to buy international units from credible international carbon markets or emissions trading schemes in other countries. They will be allowed to use these units to meet some of their local obligations. When an Australian business buys an international unit, it means that a tonne of pollution cannot be released overseas. In addition, farmers will be able to sell credits generated from the CFI to international markets.¹⁸

- 2.37 The Clean Energy Bill 2011 provides safeguards concerning the credibility of international units and to ensure that they do not undermine the environmental integrity of the mechanism.
- 2.38 Until 2020, businesses may meet at least half of their annual obligations each year by buying carbon units or ACCUs. The Clean Energy Bill 2011 - Explanatory Memorandum says:

It will be more efficient and less costly to reduce Australia's carbon pollution by a mixture of domestic reductions and international unit purchases compared with relying on domestic action alone. International linking allows Australian businesses to pursue credible, cheaper carbon pollution reduction opportunities wherever they are available.¹⁹

Compliance and enforcement²⁰

- 2.39 The Clean Energy Bill 2011 gives the Regulator powers to encourage compliance and, when problems emerge, the ability to investigate and
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17 See Clean Energy Bill 2011 - Explanatory Memorandum, Chapter 4.

18 Clean Energy Bill 2011 - Explanatory Memorandum, p. 36.

19 Clean Energy Bill 2011 - Explanatory Memorandum, p. 37.

20 See Clean Energy Bill 2011 - Explanatory Memorandum, Chapter 7.

take enforcement action. The Regulator's decisions are circumscribed and subject to merits and judicial review.²¹

2.40 Under the Clean Energy Bill 2011:

- liable entities are required to make and keep records and to provide information to the Regulator in specified circumstances, including disclosures about significant holdings;
- the Regulator has investigatory powers, including information-gathering powers and monitoring powers ;
- the Regulator may take action against liable entities and others concerned with compliance with the mechanism for failures to comply with the mechanism. This can include:
 - ⇒ issuing infringement notices or seeking the acceptance of court-enforceable undertakings;
 - ⇒ commencing court proceedings for the imposition of a civil penalty or a criminal sanction.

Reviews by the Authority²²

2.41 The Clean Energy Bill 2011 provides that the Authority must undertake specific reviews concerning aspects of the mechanism (see above). In addition, it may, at the request of either the minister or the Parliament, undertake broader reviews of the mechanism.

Clean Energy (Consequential Amendments) Bill 2011

2.42 The Clean Energy (Consequential Amendments) Bill 2011 sets out consequential amendments to existing Commonwealth laws on climate change and environmental regulation, economic and business regulation and taxation.²³

2.43 These changes are needed to implement the mechanism fully. The bill also provides for transitional arrangements concerning the way in which the mechanism will link with existing greenhouse gas management and reduction schemes.

2.44 The Clean Energy (Consequential Amendments) Bill 2011:

21 See Clean Energy Bill 2011 – Explanatory Memorandum, Chapter 9.

22 See Clean Energy Bill 2011 – Explanatory Memorandum, Chapter 10.

23 See Clean Energy (Consequential Amendments) Bill 2011 – Explanatory Memorandum.

- integrates responsibility for the mechanism, NGERs, the Carbon Farming Initiative, the Registry and the Renewable Energy Target under the Regulator;
- implements arrangements for enforcement cooperation between the Regulator and other national economic regulators, such as the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission, and law enforcement agencies, such as the Commonwealth Director of Public Prosecutions and the Australian Transactions Reports and Analysis Centre (Austrac);
- provides for the application of an equivalent carbon price to emissions attributable to synthetic greenhouse gases²⁴;
- implements the Conservation Tillage Tax Offset, to encourage low-emissions farming practices; and
- deals with the taxation treatment of carbon units, such that tax treatment should not compromise the main objectives of the scheme: tax should not influence decisions between purchasing, trading and surrendering units or alternatively reducing emissions. The preferred tax treatment will help implement the scheme and reduce compliance and administration costs for taxpayers and the Australian government.

Household assistance bills

Clean Energy (Income Tax Rates Amendments) Bill 2011

- 2.45 The Clean Energy (Income Tax Rates Amendments) Bill 2011 makes changes to personal income tax rates and thresholds that will enact the tax cuts that form the household assistance package. Under this package, the Government has dedicated more than half of the revenue raised from pricing carbon pollution for assistance to households. This assistance is targeted to low- and middle-income households.²⁵
- 2.46 All taxpayers with taxable income up to \$80,000 will get a tax cut from 1 July 2012. Most are expected to get a cut of at least \$300. From 1 July 2015, all taxpayers with taxable income up to \$80,000 will get a further tax cut that brings the total tax cut to at least \$380 for most.

24 See also the section headed 'Synthetic greenhouse gas bills' below.

25 See Clean Energy (Income Tax Rates Amendments) Bill 2011 and Clean Energy (Tax Laws Amendments) Bill 2011 - Explanatory Memorandum.

- 2.47 In addition, the amendments triple the tax-free threshold from \$6,000 to \$18,200 on 1 July 2012, and to \$19,400 from 1 July 2015. Consequently, from 1 July 2012 workers will not start paying personal tax until their income exceeds \$20,542.
- 2.48 The Government expects these changes to also benefit part-time secondary earners. Regular wage and salary earners with income below the new tax-free thresholds will be able to keep every cent of their pay from their regular pay packets.

Clean Energy (Household Assistance Amendments) Bill 2011

- 2.49 The Clean Energy (Household Assistance Amendments) Bill 2011 provides for increased payments to pensioners, allowees, veterans, self-funded retirees and families. The payments provide assistance greater than the average expected price increase from putting a price on carbon.²⁶
- 2.50 An initial lump sum advance payment will be made to eligible households before the commencement of the carbon pricing scheme. The advance amount will vary by household type: it will be \$250 for single pensioners, and up to \$110 per child for those who receive family tax benefit part A.
- 2.51 A new ongoing clean energy supplement will also be provided. This supplement will be a new component of the rate of pensions, allowances and family tax benefit. It will constitute a 1.7 per cent increase in payments to age, disability and carer pensioners, allowees, veterans, self-funded retirees and Australian families. This 1.7 per cent comprises:
- the expected additional impact on the consumer price index from carbon pricing – 0.7 per cent; and
 - an additional increase of one per cent.
- 2.52 The annual amount of the clean energy supplement will be around \$338 for single pensioners, and up to \$110 per child for recipients of family tax benefit part A. The supplement will be indexed.
- 2.53 The Government estimates that eight million households will receive assistance either through payment increases or tax cuts, or both.

26 See Clean Energy (Household Assistance Amendments) Bill 2011 – Explanatory Memorandum.

Clean Energy (Tax Laws Amendments) Bill 2011

- 2.54 The Clean Energy (Tax Laws Amendments) Bill 2011 contains consequential amendments to offsets and levies in the personal tax system to ensure nobody pays more tax as a result of the changes in the Clean Energy (Income Tax Rates Amendments) Bill 2011.²⁷
- 2.55 From 1 July 2012, \$1,050 of assistance will be shifted from the low-income tax offset into the tax scales. A further \$145 will be delivered through the tax scales instead of the offset from 1 July 2015. This bill will roll the pensioner tax offset into the more generous senior Australians tax offset to create the new seniors and pensioners' tax offset.
- 2.56 The Clean Energy (Tax Laws Amendments) Bill 2011 will also increase the Medicare levy low-income thresholds and phase-in limits to ensure that people are not required to pay the Medicare levy before they have a tax liability. The low-income threshold for a single individual with no dependants will increase from \$18,839 to \$20,542.

Fuel tax bills²⁸

Clean Energy (Fuel Tax Legislation Amendment) Bill 2011

- 2.57 The Clean Energy (Fuel Tax Legislation Amendment) Bill 2011:
- amends the *Fuel Tax Act 2006* reducing businesses' fuel tax credit entitlements by an amount that reflects the equivalent carbon price on the emissions of the transport fuels they use;
 - imposes a cent-for-cent impact on businesses, equivalent to the price on the carbon content of the transport fuels they use;
 - exempts the agricultural, forestry and fishing industries from the carbon reduction to their fuel tax credit entitlements. These industries will not pay an effective carbon price on emissions from their off-road use of transport fuels, including fuels used in stationary plant and equipment. It also ensures that no effective carbon price will be payable in respect of emissions from heavy on-road transport; and

27 See Clean Energy (Income Tax Rates Amendments) Bill 2011 and Clean Energy (Tax Laws Amendments) Bill 2011 – Explanatory Memorandum.

28 See Clean Energy (Fuel Tax Legislation Amendment) Bill 2011; Clean Energy (Excise Tariff Legislation Amendment) Bill 2011 and Clean Energy (Customs Tariff Legislation Amendment) Bill 2011 – Explanatory Memorandum.

- gives effect to the government's intention that separate arrangements will be made after the next election so that heavy on-road transport will become liable for a carbon charge after 1 July 2014.

Clean Energy (Customs Tariff Amendment) Bill 2011

2.58 The Clean Energy (Customs Tariff Amendment) Bill 2011:

- establishes a cent-for-cent impact on aviation and non-transport compressed natural gas equivalent to the price on the carbon content of the transport fuels they use;
- amends the *Customs Tariff Act 1995* by increasing aviation fuel excise equivalent customs duty by an amount reflecting the price on the carbon emissions of the fuel had aviation fuel emissions been liable emissions under the mechanism; and
- apply excise equivalent customs duty for non-transport compressed natural gas on a cent-for-cent basis equivalent to the carbon emission price on the fuel had compressed natural gas emissions been liable emissions under the mechanism.

Clean Energy (Excise Tariff Legislation Amendment) Bill 2011

2.59 The Clean Energy (Excise Tariff Legislation Amendment) Bill 2011:

- establishes a cent-for-cent impact on fuels to the price on the carbon content of the transport fuels they use, this time on aviation and non-transport compressed natural gas equivalent; and
- amends the *Excise Tariff Act 1921* and related acts to increase aviation fuel excise by an amount reflecting the price on the carbon emissions of the fuel had aviation fuel emissions been liable emissions under the mechanism.

Synthetic greenhouse gas bills

2.60 The Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011 and the Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011 ensure that the manufacture and importation of Kyoto protocol synthetic greenhouse gases (hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride) will be

subject to the carbon price by way of the existing levy structure under the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995*, the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* (together, the Levy Acts) and the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.

- 2.61 The equivalent carbon price will be calculated based on the CO₂-e of the gas, multiplied by the applicable charge. The carbon price will be additional to the existing levy imposed by each Levy Act.
- 2.62 The Levy bills will allow the minister to determine whether or not a licensee is exempt from paying the levy in specific circumstances. These circumstances include the manufacture of medical equipment or such circumstances where it is simply impracticable to impose the levy.

The charges bills

Clean Energy (Unit Shortfall Charge—General) Bill 2011

- 2.63 If a person surrenders insufficient units to meet his or her liability for greenhouse gas emissions, then the difference between their liability and what they actually surrendered is a unit shortfall. If a person has a unit shortfall, then he or she has a choice between surrendering more units to meet the shortfall, or paying a unit shortfall charge.
- 2.64 The Clean Energy (Unit Shortfall Charge—General) Bill 2011 provides that the unit shortfall charge is set at a level which is higher than the value of the units:
- in fixed charge years this is 130 per cent of the fixed charge for that year; and
 - in flexible charge years this is 200 per cent of the benchmark average annual price for the previous year or an amount as specified in the regulations.

This is intended to provide an incentive to surrender units rather than incur a shortfall charge.²⁹

²⁹ See Clean Energy (Unit Shortfall Charge) Bill 2011, Clean Energy (Unit Issue Charge – Fixed Charge) Bill 2011, Clean Energy (Unit Issue Charge – Auctions) Bill 2011, Clean Energy (Charges – Customs) Bill 2011, Clean Energy (Charges – Excise) Bill 2011, Clean Energy

- 2.65 The Clean Energy (Unit Shortfall Charge – General) Bill 2011 imposes a unit shortfall charge as a tax so far as it is not a duty of customs nor a duty of excise. A unit shortfall charge is designed to encourage liable entities under the mechanism to surrender units, rather than pay the charge. There is no compulsion to pay a unit shortfall charge, but it is payable if insufficient units are surrendered.³⁰

Clean Energy (Unit Issue Charge – Fixed Charge) Bill 2011 and the Clean Energy (Unit Issue Charge – Auctions) Bill 2011

- 2.66 Under the mechanism a person must pay a charge to for a unit to be issued by the Regulator. The Clean Energy (Unit Issue Charge – Fixed Charge) Bill 2011 and the Clean Energy (Unit Issue Charge – Auctions) Bill 2011 impose as a tax the charges for the issue of carbon units (whether a fixed fee or auctioned), so far as the charges are a tax, but not duties of customs or excise, within the meaning of section 55 of the Constitution.

- 2.67 The Explanatory Memorandum for the two bills says:

The Commonwealth does not consider that issue charges are taxation because taxation is necessarily compulsory and it is not compulsory to surrender units.

However, a separate bill imposes those charges so far as they are taxation to ensure there can be no argument that there has not been compliance with section 55 [of the Constitution]. So far as the issue charges are not taxation, they will be payable under clauses 110 and 111 of the main bill.

The Commonwealth does not consider that, if the issue charges are taxation, a law imposing both the fixed charge and the auction charge would deal with more than one subject of taxation. However, separate bills impose the different charges to ensure that there can be no argument that there has not been compliance with section 55.³¹

(International Unit Surrender Charge) Bill 2011 – Explanatory Memorandum (Clean Energy Charges Bills - Explanatory Memorandum), paragraph 1.12.

30 See Clean Energy Charges Bills - Explanatory Memorandum, paragraphs 1.3-1.4.

31 See Clean Energy Charges Bills – Explanatory Memorandum, paragraphs 1.6-1.9.

Clean Energy (Charges—Excise) Bill 2011 and the Clean Energy (Charges—Customs) Bill 2011

2.68 There may be circumstances in which unit shortfall charges and issue charges may be duties of customs or excise. The Clean Energy (Charges—Customs) Bill 2011 imposes these charges so far as they are duties of customs. The Clean Energy (Charges—Excise) Bill 2011 imposes the charges so far as they are duties of excise.

2.69 The Explanatory Memorandum for the two bills says:

It is not clear that the unit shortfall or issue charges would be duties of customs or duties of excise. Imposition of the charges by a separate bill so far as they are duties of customs or duties of excise ensures that there can be no argument that there has not been compliance with section 55 of the Constitution.³²

The Clean Energy (International Unit Surrender Charge) Bill 2011

2.70 The Clean Energy (International Unit Surrender Charge) Bill 2011 imposes as a tax the charge for surrender of an eligible international emissions unit during the eligible financial years beginning on 1 July 2015, 2016 and 2017.

2.71 Eligible international emissions units are defined in section 4 of the *Australian National Registry of Emissions Units Act 2011*. The initial list of eligible international emissions units includes currently traded Kyoto units which are likely to be traded through to 2015.³³

The Clean Energy Regulator 2011

2.72 The Clean Energy Regulator Bill 2011 sets up the Regulator, which will administer:

- the mechanism;³⁴
- the Renewable Energy Target;
- the Carbon Farming Initiative;
- the Registry;

32 See Clean Energy Charges Bills – Explanatory Memorandum, paragraph 1.10.

33 Clean Energy Bill 2011 – Explanatory Memorandum, paragraphs 3.99 and 3.100.

34 See Clean Energy Bill 2011 – Explanatory Memorandum, Chapter 7.

- the functions of the Office of the Renewable Energy Regulator (ORER);
and
 - the functions of the Greenhouse and Energy Data Officer (GEDO).³⁵
- 2.73 The Clean Energy Regulator Bill 2011 sets up the Regulator as independent of Government and provides that it will carry out its functions within a limited and legislatively prescribed discretion. There is limited scope for Ministerial directions to the Regulator and the limited grounds on which a member of the Regulator may be removed from office.
- 2.74 The Regulator will be a body corporate comprising a Chair and between two and four other members. For the purposes of the *Public Service Act 1999*, the Chair of the Regulator is the head of a statutory agency and can employ Australian Public Service employees on behalf of the Commonwealth.
- 2.75 To ensure proper use and management of public money, public property and other Commonwealth resources, the Regulator will be bound by the *Financial Management and Accountability Act 1997*.
- 2.76 The Regulator will be required to produce a corporate plan setting out the Regulator's objectives and the strategies and policies that are to be used to achieve those objectives. The Regulator will also be required to produce an annual report, which will be tabled in Parliament.
- 2.77 The Clean Energy Regulator Bill 2011 contains provisions designed to ensure that information obtained by the Regulator in the course of its functions is only disclosed and used for legitimate purposes.

The Climate Change Authority 2011

- 2.78 The Climate Change Authority Bill 2011 sets up the Authority, which will:
- provide recommendations to the Government on future pollution caps;
 - in doing so, make recommendations on the indicative national trajectory and emissions budget, having regard to the long-term target set by the Government and estimates of the global emissions budget;

35 See the Clean Energy Regulator Bill 2011 – Explanatory Memorandum, pp. 7-9.

- provide independent advice to the Government on the progress that is being made to reduce Australia's emissions to meet national targets, any indicative national trajectory or budget;
- conduct regular reviews of, and make recommendations on, the carbon pricing mechanism (household assistance and the jobs and competitiveness program will be reviewed separately);
- conduct reviews of and make recommendations on the National Greenhouse and Energy Reporting System, the Renewable Energy Target and the Carbon Farming Initiative;
- make recommendations to the Government on whether a robust methodology could be developed to recognise additional voluntary action by households;
- provide advice to Government on the role of the price floor and price ceiling beyond the first three years of the flexible price phase;
- conduct reviews and make recommendations on other matters as requested by the Minister for Climate Change and Energy Efficiency or the Parliament; and
- conduct or commission its own independent research and analysis into climate change and other matters relevant to its functions.³⁶

2.79 The Authority will engage with representatives interested in climate change from across Australia in order to share research and information on climate change and gain input into its analysis. The Authority is required to undertake public consultation when completing its reviews and must publish all of its reports on its website.

2.80 The Climate Change Authority Bill 2011 - Explanatory Memorandum says that:

The Government's intention is to establish an independent Authority to conduct reviews and provide advice to Government. The Authority will be required to take a number of specified factors into account but is not subject to Government direction in relation to the contents of its review reports.³⁷

2.81 The Climate Change Authority Bill 2011 sets up the Authority as a body corporate comprising a Chair and eight other members, one of whom is the Chief Scientist, which will be supported by a secretariat.

36 See Climate Change Authority Bill 2011 - Explanatory Memorandum, pp. 7-9

37 Climate Change Authority Bill 2011 - Explanatory Memorandum, paragraph 1.8.

- 2.82 The primary functions of the Authority are to conduct reviews of the Clean Energy Act (as enacted), the Renewable Energy Target Scheme, the Carbon Farming Initiative, the National Greenhouse and Energy Reporting System, and other special reviews as requested by the Minister.
- 2.83 There is to be a Chief Executive Officer (CEO) of the Authority who is responsible for the day-to-day administration of the Authority. For the purposes of the *Public Service Act 1999*, the CEO is the head of a statutory agency and can employ Australian Public Service employees on behalf of the Commonwealth.
- 2.84 In order to ensure proper use and management of public money, public property and other Commonwealth resources, the Authority will be bound by the *Financial Management and Accountability Act 1997*.
- 2.85 The Authority will be required to produce:
- a corporate plan setting out the Authority's objectives and the strategies and policies that are to be used to achieve those objectives;
 - an annual report, which will be tabled in Parliament.
- 2.86 As with other bodies where a significant degree of independence is required, such as the Productivity Commission, the Authority is subject to Ministerial direction on general matters only.
- 2.87 The Minister may only terminate an appointment (other than the Chief Scientist) to the Authority on narrow grounds, including for misbehaviour, physical or mental incapacity or repeated absence from meetings of the Authority.
- 2.88 The Climate Change Authority Bill 2011 also sets up the Land Sector Carbon and Biodiversity Board, comprising a Chair and four other members.³⁸
- 2.89 The Board will:
- advise on performance indicators, implementation and funding guidelines for measures supported by the Government's Biodiversity Fund relating to biodiverse ecosystems and carbon sequestration in those ecosystems; and
 - provide advice to the Government on the implementation, performance indicators and priorities for research of other prescribed land sector

38 See Climate Change Authority Bill 2011 – Explanatory Memorandum, Chapter 2.

measures included as part of the Government's plan for a clean energy future.

2.90 The Climate Change Authority Bill 2011 - Explanatory Memorandum says that:

The Board's functions are intended to ensure that efforts are not duplicated and benefits for landholders and the environment are realised.³⁹

2.91 The Board will also be required to produce an annual report for the Environment Minister, which will be tabled in Parliament.

The steel transformation plan

2.92 The steel transformation plan (the plan) is implemented by the Steel Transformation Plan Bill 2011 and is related to the mechanism.

2.93 The plan is a \$300 million entitlement program over four years from the 2012-13 financial year. It is intended to encourage investment, innovation and competitiveness in the Australian steel manufacturing industry as it transforms into an efficient and economically sustainable industry in a low carbon economy.

Steel Transformation Plan Bill 2011

2.94 The Steel Transformation Plan Bill 2011 (STP Bill) provides assistance to the Australian steel industry by way of competitiveness assistance advances in 2011-2012 and entitlement payments under the plan.

2.95 Under the plan, assistance is limited to \$300 million and is guaranteed through a standing appropriation. The standing appropriation provides the steel manufacturing industry with certainty in respect of the amount of assistance it will be entitled to receive through the plan.

2.96 The Minister may approve up to \$164 million in competitiveness assistance advances in 2011-2012. This is limited to circumstances where the advances are necessary to assist eligible Australian steel manufacturers to undertake activities that will significantly enhance the competitiveness and economic sustainability of the steel manufacturing industry in Australia. The amount of an advance will be deducted from future entitlement payments under the plan.

39 Climate Change Authority Bill 2011 - Explanatory Memorandum, paragraph 2.4.

- 2.97 The administrative details of the plan are to be set out in a legislative instrument. This is to
- [reduce] the administrative complexity of the legislation and provides the flexibility required to deal with changing circumstances in the Australian steel manufacturing industry.⁴⁰
- 2.98 The STP Bill sets out the matters to be contained in the legislative instrument, including:
- the registration of eligible corporations;
 - the making of payments under the plan (including conditions that are to be complied with);
 - the recovery of amounts by the Commonwealth;
 - the payment of interest on overpaid amounts;
 - the inalienability of plan payments;
 - the review of decisions; and
 - other matters required or permitted to be included in the plan.
- 2.99 The STP Bill provides that debts under the plan may be recovered by the Commonwealth, including by offsetting against a participant's future payments. Monies recovered may then be redistributed within future plan years. Any unspent funds at the end of the plan will be returned to the Consolidated Revenue Fund.
- 2.100 The STP Bill includes a monitoring regime, to enable the Department of Innovation, Industry, Science and Research (DIISR) to ensure that the plan is complied with and payments are applied to proper purposes. This monitoring regime is required because:
- the plan is a self-assessment scheme for which payments are provided on trust, subject to later compliance and verification. These powers aim to ensure the integrity of the plan by deterring participants from over-claiming assistance.⁴¹
- 2.101 DIISR's monitoring powers include:
- powers to access premises by authorised departmental officers; and

40 Steel Transformation Plan Bill 2011 – Explanatory Memorandum, p. 1.

41 Steel Transformation Plan Bill 2011 – Explanatory Memorandum, paragraph 39.

- information gathering powers, including powers to obtain information and documents.

2.102 The STP Bill provides that DIISR is required to provide an annual report on the plan to the Minister for Innovation, Industry, Science and Research.⁴²

General issues about the bills

Economic impacts of the legislation

The Treasury modelling

3.1 The most reputable and thorough research on the effects of the legislation and pricing emissions on the Australian economy has been conducted by the Treasury. In July 2011, the Government released the *Strong Growth, Low Pollution* report. The Treasury modelled two scenarios: one assuming the world adopts a 450 parts per million stabilisation target and a second assuming the world adopts a 550 parts per million stabilisation target. The latter was adopted as the 'core' policy scenario and includes the following assumptions:

- Australia's emission reduction target is to reduce emissions 5 per cent below 2000 levels by 2020 and 80 per cent below 2000 levels by 2050;
- an initial carbon price of \$20 per tonne of carbon dioxide equivalent, (CO₂-e) rising by 5 per cent annually, plus inflation (resulting in a 2050 price of \$131 per tonne);
- assistance for emissions-intensive trade exposed industries commences at 94.5 per cent or 66 per cent, depending on the industry, reducing by 1.3 per cent annually;
- an effective carbon price is applied to businesses using liquid fuels from 2012-13 (excluding light vehicles, agriculture, forestry and fishing) and to heavy on-road vehicles from 2014-15 (this last measure was not agreed by the MPCCC and is not included in the bills, although it is currently Government policy);

- a worldwide greenhouse gas concentration level equivalent to 550 parts per million as the target for 2100, which is consistent with the low end of 2020 emission reduction pledges made in Copenhagen in 2009 and Cancun in 2010;
- most other countries commencing climate action by 2020 and all doing so by 2031;
- a global carbon price emerging by 2016.¹

- 3.2 The Treasury modelled the effects of these policies on the Australian economy to 2050. Overall, the Treasury found that there would be major reductions to growth in carbon emissions at the cost of a marginal reduction in economic growth. Average income growth in Australia is expected to slow by 0.1 per cent annually. Domestic emissions are expected to reduce from current levels of 578 Mt of CO₂-e to 545 Mt in 2050, or under 200 Mt in 2050 if abatement sourced overseas is included as well. This compares against projected domestic emissions of 1,008 Mt if there is no carbon pricing.²
- 3.3 The second scenario assumed that the 2100 global target for greenhouse gas concentration levels would be 450 parts per million. This gives a 50 per cent chance of holding the increase in global temperature to less than 2 degrees celsius. The 550 parts per million target gives a 50 per cent chance of holding the increase in global temperature to less than 3 degrees celsius. The economic outcomes under this more ambitious scenario are very similar to the core scenario. GDP will grow at the same rate as the core scenario. Gross National Income (GDP adjusted for international dividends and interest payments) will be 0.6 per cent lower in 2050 than it would be compared with the core scenario.³ This appears to be due to greater international trade in emissions permits.
- 3.4 The Treasury also modelled the effects of delaying global action on climate change. Delays increase the costs of achieving a particular outcome because delays allow emissions to increase over time. Greater reductions are required to then achieve the same result. The Treasury stated that

1 Australian Government, *Strong Growth, Low Pollution: Modelling a Carbon Price: Overview*, July 2011, p. 17, <<http://www.treasury.gov.au/carbonpricemodelling/content/overview.asp>> viewed 29 September 2011.

2 Australian Government, *Strong Growth, Low Pollution: Modelling a Carbon Price: Overview*, July 2011, pp. 4, 18, <<http://www.treasury.gov.au/carbonpricemodelling/content/overview.asp>> viewed 29 September 2011.

3 Australian Government, *Strong Growth, Low Pollution: Modelling a Carbon Price*, July 2011, p. 102, <<http://www.treasury.gov.au/carbonpricemodelling/content/report.asp>> viewed 29 September 2011.

delaying global action by three years adds 20 per cent to the first year of global mitigation cost. A further three year delay adds a further 30 per cent to the first year mitigation cost. In evidence, the Treasury explained how delays would have an economic cost on Australia within the international context:

There are two potential scenarios here. If the rest of the world takes action and Australia does not take action there is the potential for retaliatory action by other nations. Logic would suggest that, if other countries are going to impose action on Australia rather than Australians imposing it on themselves, it may well be more expensive. Particularly if any action in the future might relate around trade, it could get into the messy world of international trade obligations and international linkages. Australia relies heavily on trade and analysis in the past has found that anything that taxes trade in isolation from the rest of the economy turns out to be very expensive in terms of potential economic growth. In the scenario where the world was to move and Australia was not to move, if there was retaliatory action, it is likely to be more expensive than if Australia imposes an efficient market mechanism internally on itself.

The second issue is if that was not to happen – if the world takes action and Australia does not take action and then Australia eventually takes action off its own bat. It is potentially quite expensive to adjust at that point because, if someone has a dollar of investment and they are looking at investing in a country that has already moved along the path to reducing their emissions versus a dollar of investment in a country that has a high emission intensity industrial structure, it could well be that the investment moves away from Australia quite sharply, and that could be quite a sharp transition to a lower emission future. Sharp transitions involve higher economic cost.⁴

- 3.5 Climateworks Australia confirmed that delays will have significant economic costs to Australia, which include costs by us locking in more high-emission infrastructure and equipment that put us further away from our goals:

... if we delayed until 2015 commencing these actions to reduce emissions, we would increase the cost of achieving the minimum five per cent target by \$5 billion in Australia. We also quantified

4 Ms Meghan Quinn, Treasury, *Committee Hansard*, Canberra, 26 September 2011, pp. 7-8.

that we have already increased the cost by \$1 billion by delaying from 2010 to 2011. The reason for that is that a lot of the opportunities you will see that we have modelled are opportunities to save money through energy efficiency, and so each year that we do not undertake that year's share of that activity we allow buildings to be built or refurbished or vehicles to be purchased at lower than ideal emission standards. Those emissions are locked in and therefore the financial savings are lost to us. Equally, it gets more extensive to catch up later in the decade, as we must then draw upon more expensive opportunities.⁵

- 3.6 The Treasury report includes sensitivity analysis of the modelling. The Treasury found that the findings were robust to varying the assumptions.
- 3.7 On Wednesday, 21 September 2011, the Treasury released updated modelling to take into account the detail included in the bills and other policy announcements. The first major finding in the update is that the slightly higher carbon price of \$23 a tonne will reduce domestic emissions by an additional 5 Mt of CO₂-e in the first three years of the scheme. The second is that the policy announcement in relation to heavy road vehicles from 1 July 2014 reduces emissions by 20 Mt of CO₂-e by 2050 and reduces the overall cost of meeting Australia's emission targets by spreading abatement action more evenly across the economy.
- 3.8 The other macroeconomic findings in relation to the Australian economy remained largely the same as in the July report.⁶
- 3.9 It might be surprising that putting a price on carbon would generate such significant savings in greenhouse emissions at such a small cost to economic growth. The reason is that the free market adapts around the carbon price. As the Treasury stated in evidence:

What happens when people take action typically is that they shift the emissions intensity of their output and do not change the level of their GDP. We find in history that the level of GDP has grown quite strongly in countries while their emission intensity has fallen through time. That is the intention of the overall package to put a

5 Ms Anna Skarbek, Climateworks Australia, *Committee Hansard*, Melbourne, 27 September 2011, p. 44.

6 Australian Government, *Strong Growth, Low Pollution: Modelling a Carbon Price: Update*, September 2011, p. 1, <http://www.treasury.gov.au/carbonpricemodelling/content/update_report.asp> viewed 29 September 2011.

price on carbon. You get continued growth and emissions falling or emissions staying the same and emissions intensity falling.⁷

- 3.10 To complement this macro-economic explanation, Westpac gave a micro-economic perspective. They stated that, once businesses has certainty about a regulatory approach or a market, they can start managing the risks and adapting:

It goes back to the point that we keep making – that is, that when you have certainty around the framework and you have certainty around what you can expect, you are able to manage that risk in a highly effective manner. Australian business is actually very used to managing these sorts of market based variables and doing it very well.⁸

- 3.11 Although it is tempting to focus on the costs of reducing greenhouse emissions, such an analysis does not cover the whole picture. Importantly, it does not consider the large costs of not taking action on climate change, such as the adaptive costs to the Australian economy of addressing the impacts of rising sea levels and the changing suitability of land for agriculture. Viewed in this light, the decrease in economic growth of 0.1 per cent annually is a modest price to prevent large scale environmental changes.

Criticisms of the Treasury modelling

- 3.12 During the inquiry, the committee did not receive any alternative comprehensive modelling that was at variance with the Treasury's work. Therefore, the committee concludes that there is no evidence of significant errors in the Treasury's analysis and that its findings are generally sound. Some participants also took this view. For example, Westpac stated, 'While we think this is a fair assessment overall, this does not mean there may not be significant adjustments within and/or between industries'.⁹
- 3.13 The committee did receive criticisms of the modelling. One concern related to the Treasury's assumptions about progress in developing international emissions markets. This was raised by the National Lime Association and the Institute of Public Affairs.¹⁰ The Treasury's response was what they have done is to 'use the Cancun pledges and operationalise

7 Ms Meghan Quinn, Treasury, *Committee Hansard*, Canberra, 21 September 2011, p. 8.

8 Ms Emma Herd, Westpac, *Committee Hansard*, Sydney, 28 September 2011, p. 23.

9 Westpac, *Submission 12*, p. 5.

10 National Lime Association, *Submission 4*, p. 4; Dr Alan Moran, Institute of Public Affairs, *Committee Hansard*, Melbourne, 27 September 2011, p. 57.

them in our modelling',¹¹ rather than make predictions about international agreement-making. The committee agrees that taking a formal statement by a country's government is a suitable way of developing assumptions.

- 3.14 The Treasury noted that countries can reduce their emissions in various ways and that this need not be initiated through a nationally coordinated scheme:

In order to get a net purchase, it does require the firms within the United States to be able to purchase abatement from overseas. They could still do that. This is a hypothetical scenario about what different frameworks people could put in place in terms of different climate change mitigation policies, but there are certainly different mechanisms whereby the United States could have a part regulation regime and a part allowance of purchase of abatement from overseas. It depends a little bit on the framework the United States puts in place. For example, the Californian state is looking at the possibility of an emissions trading scheme. There are other trading schemes of different forms in place at the moment in the United States. It could well be those mechanisms that end up in place, with the purchase of abatement from overseas, or it could be through regulatory approaches where the Environmental Protection Agency allows generators, for example, to meet certain emission intensity targets by purchasing abatements from overseas.¹²

- 3.15 This was corroborated by the green energy sector. The Clean Energy Council stated in evidence that, 'There is now a long-term shadow price on carbon in Australia'.¹³ Pacific Hydro noted:

We are trading carbon credits out of our Chilean projects. We have invested about \$1.7 billion on the back of international carbon trading. In many respects the market is off and running. Europe is trading in carbon. It does not matter what happens in the next round of Kyoto, they will continue to do that. China is starting to move down that path and so are many jurisdictions in the US. In the absence of an international agreement, there are a whole series of regional agreements which are powering ahead and driving this

11 Dr David Gruen, Treasury, *Committee Hansard*, Canberra, 26 September 2011, p. 5.

12 Ms Meghan Quinn, Treasury, *Committee Hansard*, Canberra, 26 September 2011, p. 5. See also Ms Meghan Quinn, Treasury, *Committee Hansard*, Canberra, 26 September 2011, p. 6.

13 Mr Matthew Warren, Clean Energy Council, *Committee Hansard*, Melbourne, 27 September 2011, p. 40.

international action. There is a global price in carbon without a global agreement.¹⁴

- 3.16 In other words, emissions markets are developing from the ground up, rather than from the top down. It is preferable for Australia to become part of this process now because this will give us greater opportunities to influence the development of the market and obtain arrangements that are to our benefit or, at least, not to our detriment.

The view from the financial markets

- 3.17 Companies that are listed on the Australian Securities Exchange (ASX) must comply with various listing rules. Chapter 3 of the rules covers continuous disclosure, with rule 3.1 stating:

Once an entity is or becomes aware of any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities, the entity must immediately tell ASX that information.¹⁵

- 3.18 Although this rule is general in application and is not designed to cover climate change policy, any entity that had formed a view that climate change policy would adversely affect its financial performance would be required to report this to the ASX. Therefore, disclosures to the ASX give a useful indication of what businesses believe are affecting their profitability. These announcements would generally be at least as reliable as statements their peak bodies might make in political debate because companies risk de-listing for non-compliance with listing rules. The consequences for a business organisation for making a misleading statement in political debate are much less direct and certain.

- 3.19 The committee asked the Investor Group on Climate Change what disclosures were being made to the ASX in relation to climate change policies:

My understanding of the market obligation is that, when a company knows something to be true or knows that there will be an impact, there is an obligation to disclose to the market. So the question is: does the company have enough information to know something and, therefore, make a statement? Our observation is that many companies have made disclosures to the ASX. We study

14 Mr Andrew Richards, Pacific Hydro, *Committee Hansard*, Melbourne, 27 September 2011, p. 54.

15 ASX, Listing Rule 3.1. <<http://www.asxgroup.com.au/media/PDFs/Chapter03.pdf>> viewed 29 September 2011.

all the listed companies but we studied 14, I think, through Deutsche Bank very recently. They were highly emissions intensive companies and we found that all of those companies identified modest financial impacts from the scheme, generally below one per cent of earnings.¹⁶

- 3.20 In other words, the companies that face the largest incentive under the bills to change their operations and reduce emissions are predicting a reduction in earnings of below 1 per cent in what appears to be the short to medium term.
- 3.21 This compares with some statements made by industry. For example, in June the Australian Coal Association stated that 4,000 potential jobs would be at risk within the first three years of an emissions trading scheme. It stated that such a scheme would cost the industry \$18 billion in the first nine years.¹⁷
- 3.22 The two sets of comments are a long distance apart. The committee takes the view that statements to the ASX by emissions intensive industries about future profitability are much more likely to reflect their financial position. Comments made by their industry representatives are much more likely to reflect their political position and are better interpreted as a request for further industry assistance. This matter is discussed below.

Specific economic issues

Growth in the clean technology industries

- 3.23 The Government's clean energy future package takes two approaches to encouraging a cleaner Australian economy. To assist in the initial stages, the package includes several industry programs to help Australian industry make the shift towards clean technology. In total, they comprise over \$14 billion in funding. The components include:
- the Clean Energy Finance Corporation, which will invest in renewable energy technologies and more broadly in clean energy such as low-

16 Mr Nathan Fabian, Investor Group on Climate Change, *Committee Hansard*, Sydney, 28 September 2011, p. 14.

17 Australian Coal Association, 'Carbon tax impact could close coal mines within three years', *Media Release*, 14 June 2011, <http://www.australiancoal.com.au/resources.ashx/MediaReleases/101/MediaRelease/5AEAF2DE9A42B36E1251939D0C47109B/14_June_ACA_Release_ACIL_Tasman.pdf> viewed 30 September 2011.

emission cogeneration technology. The Corporation will have an investment pool of \$10 billion of public funds and it will operate independently of the Government.

- the Australian Renewable Energy Agency, which will more efficiently administer current Government grants for renewable energy. It will independently administer \$3.2 billion in current Government grants for renewable energy. Its funding amount will be increased through dividends paid by the Clean Energy Finance Corporation.
- the clean technology investment program, which will provide grants to large scale businesses to support energy efficient capital equipment and low-pollution technologies on the basis that industry will provide three dollars for every dollar from the Government. The program will provide a total of \$800 million.
- the clean technology, food and foundries investment program, which will serve a similar role and work in a similar way to the clean technology investment program. This sub-program will be limited to the food processing, metal forging and foundry industries. These industries are trade exposed and have higher energy costs than general manufacturers. The program will provide \$200 million over six years.
- the clean technology innovation program, which will provide \$200 million over five years for grants to support business research and development in renewable energy, energy efficiency and low-pollution technology. The Government will match private sector investment dollar for dollar.
- the clean energy skills program, which will provide \$32 million to educational institutions and industry develop the materials and expertise to help tradespersons and professionals move towards energy efficient services and products.¹⁸

3.24 These programs will operate in an economy where greenhouse emissions will become more expensive and the private sector will face greater financial rewards for developing and commercialising clean technologies. As with any other sector of the economy, clean technology has the potential to generate direct and indirect jobs and grow over time. Pacific Hydro gave an example of this in evidence:

18 Australian Government, *Securing a clean energy future: The Australian Government's Climate Change Plan*, 2011, pp. 64-66, 133-34 <<http://www.cleanenergyfuture.gov.au/wp-content/uploads/2011/07/Consolidated-Final.pdf>> viewed 30 September 2011.

Over 10 years ago Pacific Hydro built the first non-government wind farm in Australia at Codrington. We sourced our towers then from Keppel Prince Engineering, who predominantly at that stage serviced the aluminium smelter. Eleven years down the track now there are 250 people fabricating towers. Similar things have been replicated in South Australia and elsewhere. Portland is a fantastic example where the wind industry is the second largest employer in the region behind the aluminium smelter.¹⁹

3.25 Similarly, the Australian Manufacturing Workers Union (AMWU) also recognised that clean technology has great potential in Australia:

Because of the science, we know we have to reduce emissions. We know the need to reduce high-emissions activities is already creating global demand for low-emissions technology. We see the potential of clean technology jobs. We see the \$6 trillion global clean technology industry, so we know the future of Australia's manufacturing industry is tied to the extent to which we invest in and are successful in clean energy generation and energy efficient technology development. We have approached the challenge of carbon emissions reduction with our eyes wide open so we can take advantage of the opportunities that the move to low-carbon economies will bring for Australian industry and Australian manufacturing in particular.²⁰

3.26 However, the opportunity to secure some of the clean technology industry depends on a number of factors. As the Treasury noted in its modelling, countries that move late will obtain less investment and employment than early movers.²¹ The reasoning behind this is clear. Countries that already have the knowledge and infrastructure for an industry will be cheaper places to invest, all else being equal, than countries without them. Vestas Australian Wind Technology confirmed this in evidence:

Vestas has previously tried its hand at establishing manufacturing of wind turbine components in Australia, but that venture did not succeed because we simply did not have the scale here to make sure that those jobs were sustainable and that market was large enough. Instead, in recent years we have added a lot of manufacturing jobs in the US and a lot in China and still plenty

19 Mr Andrew Richards, Pacific Hydro, *Committee Hansard*, Melbourne, 27 September 2011, p. 54.

20 Mr Timothy McCauley, AMWU, *Committee Hansard*, Melbourne, 27 September 2011, p. 25.

21 Australian Government, *Strong Growth, Low Pollution: Modelling a Carbon Price: Overview*, July 2011, p. 3, <<http://www.treasury.gov.au/carbonpricemodelling/content/overview.asp>> viewed 29 September 2011.

more in Europe as well. We go where our markets are and where our markets are the biggest so we cut out transport costs. That is the thing that Australia has missed out on in recent times – we have not got to that scale. You can model this and you can model that and everyone turns up with their own set of independent modelling, but you are never going to know until you actually get to that scale. If you look at what other countries have done elsewhere, beyond our shores, those that have gone for renewable energy, and have gone big and gone early, are the ones that have the jobs now.²²

- 3.27 As time progresses, the window of opportunity for firms to invest in particular countries to enter the market will reduce in size and significant opportunities will no longer exist when the market matures. In evidence, the committee asked wind generators whether the window was still open in Australia:

I think it is still open, as long as the clean energy bill goes forward in its strength and as long as we see relatively soon – probably in the next three to four years – a policy of what is going to happen beyond the current large-scale renewable target, because we are all sitting here. We know we are building projects to 2020, which will not be 2020. It will be 2018 or something like that when it is contracted out, and then the market is finished. All we know is that we have legislation and a Clean Energy Finance Corporation, but we do not know what either of them are going to do. So it is very difficult at the moment. What you will see is people investing in the large-scale renewable program for the next six years and, if there is nothing else in front of us at that point in time, everybody will close down shop.²³

- 3.28 The clean energy bills represent an important opportunity for Australia to further develop its clean technology sector. Significant parts of the world economy, including Europe, are moving towards clean technology and Australia, if it moves now, will be able to maximise its portion of these markets. The longer Australia delays adopting these technologies, the more likely it is to become a net importer of them. Passage of the bills will give Australian firms a greater financial reward for clean technology innovation and give more long run opportunities to local manufacturing.

22 Mr Ken McAlpine, Vestas Australian Wind Technology, *Committee Hansard*, Melbourne, 27 September 2011, p. 55.

23 Mr Brett Thomas, Acciona, *Committee Hansard*, Melbourne, 27 September 2011, p. 56.

Claims about jobs

- 3.29 In the debate over the effect of climate change policies on the Australian economy, a number of claims have been made about job losses. For example, the committee heard in evidence that the Minerals Council of Australia claimed that 24,000 jobs would be lost from the mining sector over 10 years. On the other hand, the Climate Change Institute has made projections that 34,000 clean technology jobs would be created from such policies, also over 10 years. The net effect of these claims is close to zero.²⁴
- 3.30 The Treasury has made macro-economic projections about jobs under climate change policies compared with business as usual. In evidence, the Treasury stated that jobs would grow by 1.6 million, with or without carbon pricing, by 2020.²⁵ The economy will adapt over time with emissions intensive industries growing more slowly and clean industries growing more quickly. The Treasury expects that Australia's highly skilled, educated and flexible labour force will be well placed to meet this challenge.²⁶
- 3.31 The committee asked Professor Bruce Chapman, an expert in labour economics, to explain how the labour market works. Professor Chapman's key point is that the labour market experiences a high degree of turnover. People are constantly entering employment, leaving employment, and changing jobs. This idea is well accepted among labour economists. In a typical business day, 8,000 people start a new job and 7,900 leave a job.²⁷
- 3.32 Against the background of a constantly evolving labour market, the employment effect of climate change policies of 30,000 jobs over 10 years is a low order issue. Professor Chapman stated:
- My essential point – because I am not an expert on climate change policy but I know a bit about labour markets – is that, if you want to have a debate about carbon pricing, do not think about the jobs. The jobs issue is trivial in aggregate.²⁸
- 3.33 Although no adverse employment effects are expected at the macro level, the Government has recognised that industry requires time to adjust to the
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24 Professor Bruce Chapman, private capacity, *Committee Hansard*, Canberra, 26 September 2011, p. 18.

25 Ms Meghan Quinn, Treasury, *Committee Hansard*, Canberra, 26 September 2011, p. 1.

26 Treasury overview document, pp. 5-6.

27 Professor Bruce Chapman, private capacity, *Committee Hansard*, Canberra, 26 September 2011, p. 19.

28 Professor Bruce Chapman, private capacity, *Committee Hansard*, Canberra, 26 September 2011, p. 19.

new arrangements. The effects of an economic shock are reduced if they are spread over time and the economy can naturally adjust.²⁹

- 3.34 To facilitate this adjustment, the government has announced a major program to assist the economy in its transition to clean technologies. The jobs and competitiveness program will allocate free carbon permits to the high emission industries that are highly exposed to international competition. Without this assistance, businesses in this category would face additional costs while many of their competitors would not, thus placing them at a disadvantage.
- 3.35 The most trade exposed and emissions intensive industries will receive permits equivalent to 94.5 per cent of their emissions costs based on historical data. Less trade exposed and emissions intensive industries will receive permits equivalent to 66 per cent of their emissions costs, also based on historical data. This assistance will be reduced by 1.3 per cent annually to encourage businesses to develop clean technology. Using a historical baseline gives companies a financial reward for reducing emissions. If their rate of reducing emissions is sufficiently rapid, they will keep their emissions below the number of free permits they are issued and will not pay for the emissions they produce.
- 3.36 In some circumstances, industry assistance can be problematic if businesses come to be too reliant on it. Ultimately, businesses should be making profits, rather than asking for more assistance. The jobs and competitiveness program manages this in two ways. Firstly, assistance will gradually reduce by 1.3 per cent annually. The second mechanism is that the Productivity Commission will regularly review the program, with the first review occurring in 2014-15. If changes to the program are proposed and accepted by the Government, businesses will still have some certainty because changes to the program can only be made after a period of notice. The initial rates of assistance are guaranteed for the first five years and three years notice is required for any changes.³⁰
- 3.37 Therefore, while the profile of Australian industry will change over time, the Government has put in place very generous arrangements to make this transition gradual and give businesses time to adjust. The committee expects that, at the macro level, the changes in job numbers will be a low order issue. At the firm level, businesses that make the best attempts to reduce their emissions will receive financial rewards for doing so.

29 Ms Meghan Quinn, Treasury, *Committee Hansard*, Canberra, 26 September 2011, p. 8.

30 Australian Government, *Securing a clean energy future: The Australian Government's Climate Change Plan*, 2011, pp. 55-56 <<http://www.cleanenergyfuture.gov.au/wp-content/uploads/2011/07/Consolidated-Final.pdf>> viewed 30 September 2011.

The coal industry

- 3.38 The coal industry will be affected by the legislation in a number of ways. Firstly, industries that use coal as an input within Australia will have to pay through some means for their emissions, so there will be reduced demand for the product. At the start of the new arrangements, many pollution intensive industries will receive assistance through the jobs and competitiveness program, which will greatly reduce this effect. Industry assistance will slowly phase out, which gives businesses time to develop clean technologies.
- 3.39 The main effect will be on a small number of 'gassy' mines that have higher levels of methane emissions, also termed fugitive emissions, which are released from coal seams during mining. A small number of mining companies will need to pay for these emissions. The great majority of mines are not gassy and so emissions from the actual process of mining are small and these mines will be largely unaffected by the legislation. Coal exports per se will not be affected because the burning of the coal and the emissions will occur overseas and will not be covered.
- 3.40 The Government has recognised that gassy mines will require some transitional assistance. It has allocated \$1.3 billion over six years in its coal sector jobs package. If the package were not implemented, the average gassy mine would face a cost of \$25 per tonne of coal produced at a \$23 carbon price. The package will reduce this to \$1.40 per tonne of coal produced. Assistance will be capped, based on production in 2007-08 and 2008-09, and will cover up to 80 per cent of fugitive emissions beyond a 0.1 tonne of CO₂-e emissions per tonne of coal produced. This system will give gassy mines an incentive to reduce their emissions.³¹
- 3.41 The industry has made a number of statements that an emissions trading scheme will place it at a considerable disadvantage. The Australian Coal Association stated in evidence:

Our industry notes that the carbon tax is an \$18 billion impost on the coal industry and it means that the industry ends up paying, under this particular construct, for about two-thirds of the estimated \$25 billion worth of wealth transfer to households, renewables and agriculture. The specific exclusion of the black coal industry from qualifying for trade exposed industry status is an unjust and unfair treatment of the coal industry. That in

31 Australian Government, *Securing a clean energy future: The Australian Government's Climate Change Plan*, 2011, pp. 133-34 <<http://www.cleanenergyfuture.gov.au/wp-content/uploads/2011/07/Consolidated-Final.pdf>> viewed 30 September 2011.

particular is a fundamental flaw that we see in the bills which the committee is considering. The primary issue is that the carbon tax will undermine the industry's international competitiveness ...³²

- 3.42 The Association is particularly concerned about the price on fugitive emissions.³³
- 3.43 In June this year, the Australian Coal Association released a report by ACIL Tasman, which used survey data of coal mines to project the impact of an emissions trading scheme on black coal mining. The report's key findings were that such a scheme would cost the industry \$18 billion in the first nine years and put 4,000 potential jobs at risk (that is, reduce future growth) in the first three years.³⁴
- 3.44 The statements by the Association and the findings by ACIL Tasman overlook important facts. For example, the ACIL Tasman report does not consider whether an emissions price will give an incentive to advances in technology.
- 3.45 Technical change is constantly occurring and is an important feature of economic growth. The committee asked the Construction, Forestry, Mining and Energy Union (CFMEU) how it expected companies operating gassy mines to react to the legislation:
- I see every sign that once we get past the initial lobbying, outcries and all that sort of stuff, they will release all their accountants and engineers on reducing their costs just like they always do – and they are very good at it. The Australian mining industry is the best at innovating. I fully expect them to work hard to reduce their liability to the maximum extent and that would be a good thing.³⁵
- 3.46 The CFMEU also noted that half a dozen gassy mines are already burning released methane gas to generate power and income and that they expect more mines to do so in future.³⁶ The Australian Coal Association

32 Mr John Pegler, Australian Coal Association, *Committee Hansard*, Melbourne, 27 September 2011, p. 64.

33 Mr John Pegler, Australian Coal Association, *Committee Hansard*, Melbourne, 27 September 2011, p. 65.

34 Australian Coal Association, 'Carbon tax impact could close coal mines within three years', *Media Release*, 14 June 2011, <http://www.australiancoal.com.au/resources.ashx/MediaReleases/101/MediaRelease/5AEAF2DE9A42B36E1251939D0C47109B/14_June_ACA_Release_ACIL_Tasman.pdf> viewed 30 September 2011; ACIL Tasman, *Impact of Proposed Carbon Price on Black Coal Mining*, 10 June 2011 <http://www.australiancoal.com.au/resources.ashx/Announcements/56/DocumentFile/ABC9A4EF07C0D09A302F121340D5D2A1/ACA_Report_10_06_11.pdf> viewed 30 September 2011.

35 Mr Tony Maher, CFMEU, *Committee Hansard*, Sydney, 28 September 2011, p. 5.

36 Mr Tony Maher, CFMEU, *Committee Hansard*, Sydney, 28 September 2011, p. 5.

requested in evidence that the legislation be amended to only apply to fugitive emissions once the technology was developed.³⁷ However, this overlooks the point that an emissions price will be a key incentive for industry to develop abatement technologies on a commercial scale. If the Association's approach were implemented, then the technology will probably take much longer to develop.

- 3.47 Finally, the industry overlooks that it is receiving substantial public assistance to adapt to the legislation through the \$1.3 billion coal sector jobs package. More widely, the industry is also receiving assistance through the carbon capture and storage programs. The Government launched the Global Carbon Capture and Storage Institute in 2009 to accelerate the deployment of carbon capture and storage technology globally. Total Australian Government funding for the Institute out to 2016-17 is \$305 million. The Government has also established the carbon capture and storage flagships program to support industrial scale demonstrations of carbon capture and storage technology. The Government has made \$1.68 billion available under the program.³⁸
- 3.48 The committee can only conclude that the Australian Coal Association is seeking to inflate the effects of the legislation as a means of increasing government assistance when it has already secured a very suitable group of programs. The committee considers that the coal industry has received a balanced package that will give it an opportunity to make the transition to emissions trading. The coal industry cannot plausibly argue that it requires more attention ahead of other sectors of the economy within climate change policy.

Certainty for business

- 3.49 Although many countries and regions are moving to pricing emissions, this will not be sufficient of itself to provide incentives to developing clean technologies within Australia. Passing the bills will provide certainty for business and will allow firms to start pricing risk and determining which investments provide a sufficient return over the cost of capital. Pacific Hydro stated in evidence:

37 Mr John Pegler, Australian Coal Association, *Committee Hansard*, Melbourne, 27 September 2011, p. 5.

38 Department of Resources, Energy and Tourism, 'Global Carbon Capture and Storage Institute', <<http://www.ret.gov.au/resources/gccsi/Pages/default.aspx>> viewed 5 October 2011; Department of Resources, Energy and Tourism, *Carbon Capture and Storage Flagships Program*, p. 1, <http://www.ret.gov.au/energy/Documents/cei/ccsfp/CCS_Fact_Sheet.pdf> viewed 5 October 2011.

Without the legislation and a price, they do not know how to price that risk so they do not invest. If they can price the risk, they will invest.³⁹

- 3.50 Westpac, which has the core function of pricing risk and deciding whether to invest in projects, strongly supports the legislation for its ability to reduce uncertainty and allow the Australian economy to keep pace with the rest of the world:

Failure to implement an effective and comprehensive policy response which includes a price on carbon as a key foundation stone will increase the amount of regulatory uncertainty currently hindering investment in clean technology and the structural adjustments required to decarbonise the Australian economy. This is part of an inexorable global market trend. There is no competitive advantage to Australian businesses to maintain the status quo.⁴⁰

- 3.51 This potential for investment is not hypothetical. A leading law firm, Baker and McKenzie, advised the committee that a great deal of investment is pending the passage of the bills:

The committee should not underestimate how much money is basically on hold at the moment and how much investment in the renewable sector, in carbon offsetting and in some of the green infrastructure is all contingent on this legislation passing – as well as the negotiation of long-term hire-purchase agreements. A lot of the economy which operates in those sectors is pretty much on hold, waiting for this legislation to get through.⁴¹

- 3.52 Regulatory certainty has many aspects. It applies to the future as well as to the present. Comments have been made in political debate that the legislation might be repealed at a later date.⁴² A Parliament cannot bind a future Parliament through legislation, so repealing the bills is clearly possible as a matter of law. However, the costs of so doing are high. Firstly, such action would hold Australia back from joining the rest of the world in clean technologies and a clean economy.

39 Mr Andrew Richards, Pacific Hydro, *Committee Hansard*, Melbourne, 27 September 2011, p. 56.

40 Westpac, *Submission 12*, p. 10.

41 Mr Martin Wilder, Baker and McKenzie, *Committee Hansard*, Canberra, 26 September 2011, p. 54.

42 The Sydney Morning Herald, 'Abbot vows to repeal carbon tax', 28 February 2011, <<http://www.smh.com.au/environment/climate-change/abbott-vows-to-repeal-carbon-tax-20110228-1bar8.html>> viewed 1 October 2011.

- 3.53 Secondly, it would reduce Australia's standing as a place in which to invest. The committee heard evidence from the wind energy sector that Australia's regulatory certainty helps offset our lack of scale in international markets:

One of the strong points that Australia has in any investment platform – and I was in banking for a number of years – is certainty. Australia is always seen by international investors as a market that has regulatory certainty. It is one of our strongest platforms in investment. We do not have the scale and cannot compete with the scale of renewables in China or the USA or parts of Europe. Why companies like us are here in Australia, and we have been here for seven years and we have invested nearly three-quarters of a billion dollars, is because of regulatory certainty.⁴³

- 3.54 The Australian national economy is highly reliant on its external sector. From 2008-09 to 2010-11, foreign direct investment in Australia was \$48 billion, \$40 billion and \$37 billion respectively. These sums compare with our GDP in 2010-11 of approximately \$1.3 trillion, which means that Australia receives between 3 to 4 per cent of its GDP annually in foreign direct investment.⁴⁴ Repealing the clean energy future package would place some of this investment at risk and would reduce our current and future output, while at the same time exposing us to the risk of trade related sanctions at a future date.⁴⁵ Repealing the package is not a credible option.

Community understanding of the reforms

- 3.55 The committee received submissions and correspondence and heard evidence that suggest a widespread lack of understanding about the nature of and potential liabilities under the mechanism.
- 3.56 Given the highly contested nature of the policy debate, this is, to some extent, understandable, as many Australians have only heard about the general policy issue, as set out in news media reports and advertisements, which have tended to focus on specific elements of the bills, but not the totality of issues. While this is not unusual in the development and
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43 Mr Brett Thomas, Acciona, *Committee Hansard*, Melbourne, 27 September 2011, p. 52.

44 Australian Bureau of Statistics, *Balance of Payments and International Investment Position*, Cat. No. 5206.0, September 2011, p. 27; Australian Bureau of Statistics, *Australian National Accounts: National Income, Expenditure and Product*, Cat. No. 5302.0, September 2011, p. 21.

45 Ms Meghan Quinn, Treasury, *Committee Hansard*, Canberra, 26 September 2011, pp. 7-8.

implementation of public policy, it is also a matter for concern, given the intended commencement of the mechanism on 1 July 2012.

- 3.57 In particular, the committee is aware that three sectors affected by the mechanism appear to require a great deal more information to understand the implications of the mechanism for them: small and medium-sized businesses, the agricultural sector and local governments. The particular issues concerning these sectors are addressed in more detail in Chapter 4.
- 3.58 The committee is aware of the Government's efforts to explain the reforms to the Australian people generally and to specific business and other groups, through approved government advertising, the Clean Energy Future website (www.cleanenergyfuture.gov.au) and the work of DCCEE in conducting workshops and discussions with businesses, local councils, farmers and others, and with their advisers.
- 3.59 The role of the Clean Energy Regulator will be critical in the effective establishment of the mechanism and related reforms, which will necessarily include considerable effort in working with those who will be liable under the mechanism.
- 3.60 The committee also notes that clause 295 of the Clean Energy Bill 2011 provides that the functions of the Clean Energy Regulator include, among other things:
- promoting compliance with the clean energy legislation;
 - conducting and coordinating education programs about the clean energy legislation and emissions trading schemes;
 - advising and assisting persons and their representatives about compliance with the clean energy legislation;
 - advising and assisting persons and their representatives about the steps that can be taken to avoid liability for a unit shortfall charge; and
 - collecting, analysing, interpreting and disseminating statistical information about the operation of the clean energy legislation.
- 3.61 The committee is also aware of some fundamental misconceptions about the operation of the mechanism, which are addressed below:
- The mechanism does not create a broadly-based tax payable by individual taxpayers along the lines of the Goods and Services Tax or income tax. The mechanism creates a price on greenhouse gas emissions which is borne by those entities which produce the emissions. The added cost to those entities of emitting greenhouse gases

is then either absorbed or passed on to consumers of the goods and services they produce.

- The mechanism does not, except in some limited circumstances, apply to the purchasers of energy or energy intensive services, and so large users of energy, or consumers of energy-intensive services (such as transport or heating) are generally not liable entities under the mechanism. Rather, the cost of these services will reflect the inclusion of the price on greenhouse gas emissions, and liability will rest with the supplier of those services.
- The mechanism only creates compliance obligations for persons who are directly liable under it and those that may assist them in compliance.
- The changes to the fuel tax system apply an equivalent carbon price to the use of liquid transport fuels in specific sectors, by reducing the fuel tax credits available to businesses. This uses the existing regulatory framework.
- The powers of the Clean Energy Regulator to take enforcement action are limited in their application to people who have obligations under the legislation.
- The bills do not contain provisions which would prevent the future repeal or alteration of the mechanism. While there may be considerable practical and policy challenges in repealing or fundamentally altering the legislation after the commencement of the mechanism, a Parliament cannot bind its successors through provisions in the bills, unless the Constitution provides otherwise.

3.62 In some cases, these issues are addressed in more detail in Chapter 4.

Conclusion

3.63 Australia has had a long and extensive debate on how best we will meet our international commitments to reduce greenhouse gas emissions. Australia has committed to reduce its total greenhouse gas emissions by between 5 per cent and 25 per cent from 2000 levels by 2020. This international commitment is accepted and supported by all major Australian political parties, and reflects an acceptance of the scientific evidence underpinning the need for global action to address the impacts of human-induced climate change.

- 3.64 The Clean Energy bills will implement a market-based mechanism and complementary reforms to meet Australia's international commitments.
- 3.65 The committee heard evidence about the importance of establishing the least-cost mechanism to meet its international commitments, and the serious and long-term consequences of delay to the Australian economy, but also directly to Australian citizens.
- 3.66 In particular, there are potentially serious consequences of further delay for investment in Australia's energy sector, both in terms of ensuring Australia's ongoing energy security and in the direct and significant costs to Australian consumers of further delaying much needed infrastructure investment. There are also many new opportunities for accessing cleaner energy sources in many different contexts, which will be opened up through the adoption of a price on greenhouse gas emissions.
- 3.67 The committee is aware of, and received evidence about, the claimed impacts on Australian businesses of the implementation of the mechanism and related reforms. Some of these views were positive and constructive, reflecting an optimistic outlook for an Australian economy which places a price on the emission of greenhouse gases and which endeavours to minimise the role of government in determining the shape and direction of future business activity.
- 3.68 Other views were more pessimistic, suggesting the potential for the mechanism to harm Australian businesses when international efforts to reduce greenhouse gas emissions appear uncertain and because it is a time of global economic uncertainty and our own economy is experiencing some specific transitions. For these reasons, it was suggested to the committee that the bills should either not be implemented or be delayed.
- 3.69 There are widespread and significant international efforts to reduce greenhouse gas emissions, and these are increasingly linked. Perceptions about a lack of coordinated international progress should not influence Australia's decision to act.
- 3.70 Australia has committed to reducing its own greenhouse emissions by between 5 per cent and 25 per cent below 2000 levels by 2020 and is obliged to take action to meet this commitment. International efforts take different forms, and different countries are adopting measures appropriate to their particular circumstances. The mechanism and related reforms have been designed to suit Australia's circumstances.
- 3.71 Australians are rightly conscious of the broader economic context in which reforms take place. However, the claim that significant economic reforms should be delayed to take account of current circumstances is one

which could be made at any time and for many differing reasons which suit the interests of those making such claims.

- 3.72 The relevant consideration for governments in undertaking reforms should be whether the reform over time will benefit the Australian economy as a whole and whether the costs of further delay will only serve to increase future costs to be borne by the Australian people.
- 3.73 The bills contain measures designed to mitigate the transitional effects on those parts of the Australian economy and society most exposed to them, including through the jobs and competitiveness program, assistance to coal-fired electricity generators, specific assistance measures for businesses, communities and others and household assistance.
- 3.74 While some may have specific concerns about the appropriateness and adequacy of these measures as they may apply in specific circumstances, they reflect a necessary balance between the need to ensure that any disadvantages are minimised, while at the same time ensuring the transition can occur as efficiently as possible.
- 3.75 The committee notes that, in the case of the jobs and competitiveness program and the assistance to generators, the detail of these measures is still being designed, and that many of the views received, particularly from business, reflect this fact.
- 3.76 Taking into account the evidence before it, including the comprehensive modelling prepared by the Treasury, the committee believes that the positive outcomes flowing from commencing the shift to a low-emissions economy considerably outweigh the transitional costs of doing so.
- 3.77 In the committee's view, the bills implement the least-cost option to meet Australia's obligations to reduce greenhouse gas emissions through a market-based mechanism, while also providing transitional assistance to Australian households, businesses and others as the economy adjusts over time to cleaner and more efficient energy sources.

Recommendation 1

- 3.78 **The Senate and the House of Representatives pass the following bills:**
- **the Clean Energy Bill 2011;**
 - **the other 17 bills in the clean energy package; and**
 - **the Steel Transformation Plan Bill 2011.**

Specific issues with the bills

- 4.1 This chapter focuses on specific issues or concerns raised during the committee's inquiry about the content of the bills in the Clean Energy Legislative Package and the Steel Transformation Plan Bill.
- 4.2 It focuses on the following areas:
- general views on the legislation;
 - specific issues concerning the drafting of the bills;
 - property rights and carbon units;
 - identification of liable entities;
 - links between the mechanism and international emissions reduction schemes;
 - the jobs and competitiveness program;
 - the mechanism and energy generation;
 - the powers of the Clean Energy Regulator;
 - the application of the mechanism to liquid petroleum gas;
 - the mechanism and small and medium-sized businesses;
 - the coverage of landfill facilities and impacts on local government;
 - the mechanism and the agricultural sector;
 - synthetic greenhouse gases;
 - the effectiveness of the household compensation arrangements; and
 - environmental integrity of the Steel Transformation Plan.

Each of these issues is discussed in detail below.

General views on the legislation

Background

- 4.3 The bills implementing the mechanism have had a long policy evolution.¹ While there are many changes, they are broadly based on the design of the Carbon Pollution Reduction Scheme, which was set out in the Carbon Pollution Reduction Scheme Bill 2009 and related bills and the Carbon Pollution Reduction Scheme Bill (No.2) 2009 and related bills, which were considered by the Parliament in 2009 and 2010.
- 4.4 The bills presently before the Parliament reflect the outcomes of the further policy process undertaken by the Multi-Party Climate Change Committee in 2010-11 and announced in *Securing a clean energy future: the Australian Government's climate change plan* on 10 July 2011.
- 4.5 The Government published 13 of the bills in draft on 28 July 2011. These bills covered the mechanism and the fuel tax reforms, which set out those issues which created new obligations for businesses and others. In response to issues raised in that consultation process, the Government made numerous changes to the legislation to improve the practical operation of the legislation. The main changes² made are:
- the **Opt-in Scheme** was included in response to calls from stakeholders that they would like to be part of the mechanism to manage their liability for liquid fuel emissions. This will enable large users of taxable fuels to voluntarily opt into the mechanism instead of paying the equivalent carbon price under the fuel tax or excise systems. Aviation industry businesses indicated they would prefer to be covered by the carbon price mechanism because of the opportunities it will give them to manage their liabilities for fuel emissions. These arrangements will apply from 1 July 2013 to allow for appropriate implementation two years before the start of the carbon price mechanism's flexible price period.
 - the **objects of the Clean Energy Bill 2011** have been clarified to:
 - ⇒ recognise that it is in Australia's national interest that average global temperatures increase by not more than 2 degrees Celsius above pre-industrial levels; and

1 See Chapter 1.

2 See Appendix D - Clean Energy Legislative Package - Outline of changes made since the exposure draft bills.

- ⇒ make it clear that a central objective of the bill is to put a price on carbon pollution in a way that encourages investment in clean energy, supports jobs and competitiveness in the economy, and supports Australia's economic growth while reducing pollution.
- the **jobs and competitiveness program**'s provisions have been modified to reflect the Government's commitment to giving industry notice of changes to assistance and to more accurately reflect issues to be considered by the Productivity Commission and the Government.
- the Government also introduced **technical changes** that have been made to clarify the legislation or facilitate implementation with respect to:
 - ⇒ carbon price liability in the natural gas supply chain;
 - ⇒ allocation of liability within joint ventures;
 - ⇒ disclosure of significant holdings of carbon units;
 - ⇒ legal title to carbon units;
 - ⇒ clean energy investment plans in the Energy Security Fund;
 - ⇒ application of anti-avoidance provisions;
 - ⇒ operation of an equivalent carbon price on synthetic greenhouse gases;
 - ⇒ the Regulator's powers to refuse or suspend registration under the Renewable Energy Target; and
 - ⇒ the functions and qualifications of the Land Sector Biodiversity and Carbon Board.

4.6 The Government has noted that these changes 'will enhance public confidence in the integrity of the mechanism, give industry clarity and certainty over their obligations and ensure regulatory costs are minimised.'

Analysis

- 4.7 In evidence received by the committee on the design of the package, a range of views were expressed. In the main, most submissions received from business groups and individual businesses sought specific amendments to the legislation. Some were generally supportive of the package, although a significant proportion expressed some reservations about the underlying policy.
- 4.8 Legal experts, in giving evidence to the committee, commented that the bills were a considerable improvement on the CPRS bills. Mr Doug Young,

representing the Law Council of Australia, said '[t]hese bills are a vast improvement on the 2009 Carbon Pollution Reduction Scheme documents.'³ These comments were echoed by Professor Lee Godden of the University of Melbourne and Mr Martijn Wilder of Baker & McKenzie.⁴

- 4.9 Other bodies commented that the legislation met the policy objectives announced by the Government and that it was sound. The Australian Network of Environmental Defenders' Offices (ANEDO) said that:

ANEDO represents community legal centres in every state and territory, specialising in public interest, environmental law and policy. We have looked at the legislation from that point of view and from our legal perspective we think the legislation is sound.⁵

- 4.10 General support for the legislation also came from businesses and financial sector bodies, although, in some cases, this came with suggestions for refinements to the legislation.⁶ Westpac Banking Corporation said in its submission to the committee that:

Westpac welcomes the release of draft legislation to introduce a price on carbon within a market framework by 1 July 2012 and is broadly supportive of the Clean Energy Future package announced.

Overall, Westpac supports the carbon pricing framework as detailed within the Clean Energy legislative package.⁷

- 4.11 The Investor Group on Climate Change, a body representing major institutional investors in Australia, noted in evidence to the committee that:

The key question for Australia seems to us to be: what is the best policy framework to deliver on Australia's national target and to consequently prepare for deeper emissions reductions in future? Our view is that the answer to this question should be judged on certain criteria, which, very broadly are: is the policy framework transparent and predictable; is it relatively low cost; and can it

3 Mr Douglas Young, Law Council of Australia, *Committee Hansard*, Canberra, 26 September 2011, p. 48.

4 Professor Lee Godden, *Committee Hansard*, Canberra, 26 September 2011, p. 48; Mr Martijn Wilder, Baker and McKenzie, *Committee Hansard*, Canberra, 26 September 2011, p. 48.

5 Mr Michael Power, ANEDO, *Committee Hansard*, Canberra, 26 September 2011, p. 38.

6 Infigen Energy, *Submission 22*; Hydro Tasmania, *Submission 41*; Clean Energy Council, *Submission 45*.

7 Westpac Banking Corporation, *Submission 12*, p. 4.

stand the test of time – as I say, including the need to respond to deeper emissions reduction targets in future?

Our assessment of the Clean Energy Future policy is that it can satisfactorily deliver on these criteria.⁸

- 4.12 Some submissions from businesses and business groups acknowledged improvements to the bills introduced into the Parliament when compared with the exposure draft bills released in July 2011. At the same time, many of these submissions also highlighted specific issues with the bills that they considered required further review and revision.⁹ For example, the Energy Supply Association of Australia said:

the Association provided comments and feedback in a joint submission with the Energy Retailers Association of Australia on the exposure draft legislation to the Department of Climate Change and Energy Efficiency. esaa is disappointed to see few of its proposed changes reflected in the Clean Energy Future Legislation introduced to Parliament on 13 September, including its concerns on substantive policy issues. However, the Association is pleased that at least some of the proposed implementation and drafting changes have been included in the revised legislation.¹⁰

- 4.13 Other business submissions did not comment on the policy settings reflected in the bills, but suggested specific amendments relating to their business's or sector's interests or concerns.¹¹
- 4.14 The committee also received submissions that expressed concerns about both the underlying policy represented by the bills and about specific issues in them, which reflected those policy concerns as well as practical issues.¹² For example, Rio Tinto said:

8 Mr Nathan Fabian, Investor Group on Climate Change, *Committee Hansard*, Sydney, 28 September 2011, p. 10.

9 See, for example, Energy Supply Association of Australia, *Submission 1*; Australian Industry Group, *Submission 2*, p. 3; Origin Energy, *Submission 18*.

10 Energy Supply Association of Australia, *Submission 1*, p. 1.

11 See, for example, Qantas Airways Limited, *Submission 17*; Australian Aluminium Council, *Submission 24*; Australian Trucking Association, *Submission 27*; Australian Pipeline Industry Association, *Submission 27*; Cement Industry Federation, *Submission 32*; Bus Industry Confederation, *Submission 46*; Green Cooling Association, *Submission 51*; LPG Australia, *Submission 55*.

12 See, for example, National Lime Association of Australia, *Submission 4*; Australian Petroleum Production & Exploration Association Limited, *Submission 5*; Association of Mining and Exploration Companies, *Submission 8*; CSR Limited, *Submission 20*; Rio Tinto, *Submission 29*.

Whilst it is important to respond to the climate challenge, Rio Tinto remains concerned about key features of the CEF package. Without significant changes, the scheme will inevitably hinder investment and jobs growth in Australia without meaningfully reducing global carbon emissions. It will undermine Australia's international competitiveness and hurt the nation's export-competing industries.¹³

- 4.15 The bills being considered by the committee are intended to reflect the policies announced by the Government on 10 July 2011. In considering the bills, the committee has had regard to whether the bills deliver those policies.

Conclusion

- 4.16 The bills have been the culmination of a long policy development process¹⁴, and take account of consultations held previously concerning the CPRS, and subsequent policy development and consultation concerning these bills. The committee notes the comments given in evidence before it that the bills represent an improvement on those previous bills.¹⁵
- 4.17 The committee acknowledges that some businesses have concerns about the policies implemented by the legislation. However, these issues reflect a disagreement with the underlying policy, which was announced on 10 July 2011, rather than the drafting of the bills, and are therefore beyond the scope of the committee's consideration.
- 4.18 The committee further notes that DCCEE, as a result of its consultation process on the exposure draft bills, made numerous refinements and changes to the provisions to take account of practical and other considerations raised by stakeholders. Many of these focused on compliance issues raised by businesses and business groups. These changes are summarised in Appendix D.
- 4.19 The committee has received evidence about a number of specific issues raised in the bills. These are addressed in more detail below.

13 Rio Tinto, *Submission 29*, p. 1.

14 See DCCEE, *Australia's plan for a clean energy future: Regulatory Impact Statement*, 2011, pp. 9-17.

15 See Chapter 1.

Specific issues concerning the drafting of the bills

4.20 The committee has received submissions suggesting changes to the bills, including specific proposals about:

- the practical application of specific elements of the mechanism, including the treatment of joint ventures, partnerships, international linking, the tax treatment of the holders of units, the application of specific elements of the fuel tax system, the operation of the Opt-in Scheme, the scope of regulatory powers under the mechanism, the specific design of elements of the mechanism, such as pollution caps, carbon unit auctioning and the design of the jobs and competitiveness program and the assistance to coal-fired electricity generators¹⁶; or
- the application of the mechanism to specific industry sectors and activities.¹⁷

4.21 Many of these specific issues raised concerning the detailed design of the mechanism represent concerns which were raised about the exposure draft of the bills and in previous consultations and which were not taken up by the Government, which is acknowledged by submitters. The committee has addressed some of these specific issues in detail elsewhere in this Chapter.

4.22 As a general comment, many of the concerns raised relate to the practical application of the mechanism and the compliance obligations of liable entities. These issues may be addressed by ensuring that:

- the necessary regulations and other legislative instruments relating to the detailed design of specific elements of the mechanism are completed as soon as practicable, and take into account the views of those covered by the mechanism;
- the specific practical requirements for compliance implemented by the Clean Energy Regulator are administratively simple and clear; and

16 See, for example, Energy Supply Association of Australia, *Submission 1*, Australian Petroleum and Production Association Limited, *Submission 5*, Qantas Airways Limited, *Submission 17*, Origin Energy Limited, *Submission 18*, Australian Trucking Association, *Submission 27*, Australian Pipeline Industry Association, *Submission 28*, Australian Industry Greenhouse Network, *Submission 33*, Bus Industry Confederation, *Submission 46*, LPG Australia, *Submission 55* and Law Council of Australia, *Submission 61*.

17 See, for example, National Lime Association of Australia, *Submission 4*, Association of Mining and Exploration Companies Inc., *Submission 8*, CSR Limited, *Submission 20*, Australian Aluminium Council, *Submission 24*, ATCO Gas Australia Limited, *Submission 25*, Rio Tinto Limited *Submission 29*, Cement Industry Federation, *Submission 32*.

- the Clean Energy Regulator, working with DCCEE, issues clear and straightforward information and guidance about potential liability under the mechanism and compliance with it in good time for the commencement of the mechanism on 1 July 2011, which takes account of the views of affected stakeholders.
- 4.23 There are other specific issues raised with the committee which, if adopted, would require an alteration to the bills. These have, as submitters acknowledge, been considered by the Government in the development of the bills in many cases.
- 4.24 The committee draws these matters to the attention of the Government for its further consideration.
- 4.25 Issues concerning the coverage of the mechanism or the treatment of emissions intensive-trade exposed industries are dealt with below under the headings 'The jobs and competitiveness program' and 'The mechanism and energy generation'.

Identification of liable entities

Background

- 4.26 Some concern was expressed during the committee's hearings that liable entities had not been informed by the Government about their liability under the mechanism.¹⁸
- 4.27 The Government has published factsheet concerning the liability under the mechanism to assist companies that may be affected, which is available on the Clean Energy Future website.¹⁹

Analysis

- 4.28 While the Government has indicated that around 500 entities would be directly liable under the mechanism and that entities covered by the fuel tax system may incur some additional liability under the reforms in the

18 Mrs Joanna Gash MP; Dr Steven Kennedy and Ms Jenny Wilkinson, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 14.

19 DCCEE *500 biggest polluting companies*, 2011 <<http://www.cleanenergyfuture.gov.au/500-companies/>> accessed 5 October 2011.

fuel tax bills,²⁰ there is no definitive list of entities which are liable under the mechanism, nor is it possible to compile such a list at the present time.

4.29 Liability under the mechanism is self-assessed through reporting under the National Greenhouse and Energy Reporting System (NGERS), which was established by the Howard Government in 2007. Self-assessment is also used, for example, to determine liability for income and corporate taxation. Entities which report covered emissions above the thresholds set out in the Clean Energy Bill 2011 are liable entities for the purposes of the mechanism.

4.30 DCCEE explained the way in which liability under the mechanism is determined:

Dr Kennedy: A number of companies are already reporting under the National Greenhouse and Energy Reporting arrangements. Around 500 businesses already report their emissions through that act, which was introduced in 2007 from memory, and they would have reported their emissions for the last couple of years. The government will have and does already have an engagement strategy for waste facilities for people who may be liable under those facilities and has published estimates and is currently running workshops for anyone who may be liable in those arrangements. We do not go out and directly identify companies in that manner. Companies will be liable if they exceed the threshold – if they produce more than 25,000 tonnes of emissions. Ms Wilkinson would you like to add to that?

Ms Wilkinson: I might just clarify. The person who will be liable under the scheme is generally the person who has operational control. For example, local councils may have operational control over their waste facilities or they may not; they may have subcontracted to another entity who has operational control. In the majority of cases it is the entity with operational control who will be the liable party under the scheme, and liability is determined not at a company level but at the facility level – it depends on what your emissions from a given facility are. Just because one facility is

20 See the Clean Energy (Fuel Tax Legislation Amendment) Bill 2011, Clean Energy (Excise Tariff Legislation Amendment) Bill 2011 and the Clean Energy (Customs Tariff Legislation Amendment) Bill 2011. For a list of sectors affected by the fuel tax changes, see the Treasury, *Supplementary Submission 66*.

above the threshold it does not mean that you are liable for all the facilities.²¹

- 4.31 While many entities which report under NGERS are likely to be liable under the mechanism, liability will be determined by reference to a range of factors, leading to a net amount of total emissions for which a carbon price is payable. Similarly, under the fuel tax system, liability is determined through self-assessment.

Conclusion

- 4.32 It is not possible, until the commencement of the mechanism, to determine definitively who is and is not liable under it. While this is the case, the committee is also aware of a degree of confusion among some businesses and others about the question of liability under the mechanism and related reforms.
- 4.33 The committee notes the activities being engaged in by the Department to inform those affected by the mechanism about it and its potential application to them. The committee encourages the Government to continue working with industry, professional and other peak bodies and with state, territory and local governments to provide clear information about liability under the mechanism to assist those potentially liable to make the transition as quickly and as smoothly as possible.

Property rights and carbon units

Background

- 4.34 The committee received considerable correspondence concerning the provision in clause 103 of the Clean Energy Bill 2011 that a carbon unit is personal property. Much of this concern draws on a newspaper opinion piece by Mr Henry Ergas on 16 September 2011, in which Mr Ergas stated:

It was Mark Dreyfus QC, Parliamentary Secretary for Climate Change, who let the cat out of the bag.

Once the carbon change legislation is in place, he said, repeal would amount to an acquisition of property by the commonwealth, as holders of emissions permits would be

21 Dr Steven Kennedy and Ms Jenny Wilkinson, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 14.

deprived of a valuable asset. As a result, the commonwealth would be liable, under s.51(xxxi) of the Australian Constitution, to pay compensation, potentially in the billions of dollars. A future government would therefore find repeal prohibitively costly.²²

- 4.35 Mr Dreyfus responded to Mr Ergas's article on 22 September 2011 in an opinion piece in the same newspaper:

Whether units are property for the purposes of section 51(xxxi) of the Constitution does not depend on whether the units are declared, by the legislation, to be personal property. The High Court has found that permits created under other regulatory schemes can be property even if the legislation did not state this explicitly.

The purpose of the declaration is not to tie the hands of a future government. The purpose is, together with other provisions of the legislation, to ensure that the legal status of units is clear.

Transparent property rights are fundamental for any efficient market.²³

- 4.36 Mr Ergas then, on 26 September, said in a further opinion piece that:

once carbon emitters are issued permits, those permits will be property they own, so any government that abolishes them will have to pay compensation, possibly in the billions of dollars.²⁴

Analysis

- 4.37 Clause 103 of the Clean Energy Bill 2011 provides that:

A carbon unit is personal property and, subject to sections 105 and 106, is transmissible by assignment, by will and by devolution by operation of law

- 4.38 The Explanatory Memorandum says:

22 Henry Ergas (16 September 2011) 'Labor plants poison pills in carbon tax' *The Australian* <<http://www.theaustralian.com.au/national-affairs/opinion/labor-plants-poison-pills-in-carbon-tax/story-e6frgd0x-1226138227483>> accessed 5 October 2011.

23 The Hon Mark Dreyfus QC MP (22 September 2011) 'No poison pills in carbon tax, just vital certainty' *The Australian* <<http://www.theaustralian.com.au/national-affairs/opinion/no-poison-pills-in-carbon-tax-just-vital-certainty/story-e6frgd0x-1226142981412>> accessed 5 October 2011).

24 Henry Ergas (26 September 2011) 'Lies, deception and carbon tax' *The Australian* <<http://www.theaustralian.com.au/news/opinion/lies-deception-and-carbon-tax/story-fn7078da-1226146005701>> accessed 5 October 2011.

Transparent and secure property rights over and legal interests in carbon units will promote confidence in the integrity of the units and reduce uncertainty for their holders, and further promote confidence in the development of the market for carbon units. Similar provisions have been made for ACCUs, Kyoto units and prescribed international units in consequential amendments to the CFI Act and ANREU Act.²⁵

- 4.39 The purpose of this statement is to define the nature of carbon units for the purpose of ensuring the integrity and stability of the market for trading them. Mr Martijn Wilder, a partner of international law firm Baker & McKenzie, noted:

the changes which have been made to the bill are quite important about clarifying that the unit-holder in the registry owns legal title to the units because this is specifically designed to overcome the problem that we had in Europe earlier this year where a registry was hacked into and those units were then basically transferred illegally, and in different jurisdictions the law around who owns personal property when it has been stolen and transferred resulted in very different outcomes, depending on whether you were in Germany, France or the United Kingdom. So this particular amendment is very important because it means that if somebody is engaged in buying or surrendering permits and they do so in good faith, they know that they will be the legal holder of that unit. So I think this amendment is a very important one.²⁶

- 4.40 The provision does not, on its face, relate to section 51(xxxi) of the Constitution, and the question of whether that provision applies would depend on whether carbon units meet the requirements of that section. Section 51(xxxi) concerns the power of the Australian Parliament to make laws about:

the acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws.

- 4.41 The public commentary on this issue does not spell out the basis of the view that the bills create property rights, which, if repealed, would give rise to compensation under section 51(xxxi) of the Constitution.

25 Clean Energy Bill 2011 - Explanatory Memorandum, paragraph 3.35.

26 Mr Martijn Wilder, Baker & McKenzie, *Committee Hansard*, Canberra, 26 September 2011, p. 53.

4.42 The committee sought clarification from witnesses on the question of whether the bills create a property right which would potentially give rise to liability for just terms compensation under section 51(xxxi) of the Constitution. Professor Lee Godden informed the committee that:

What needs to be understood is that it is personal property and it is created as a particular form of statutory property. It does not necessarily have all the attributes that at common law are understood to attach to personal property. So I think we need some clarification around those issues. I am flagging that perhaps more needs to be clarified here because, if we look at other instances where we have had resources attributed as private property or as property – and here I am drawing on water trading examples – the High Court has not interpreted them, in certain instances, as having the same characteristics as at common law. So I do think there is clarity needed around what is intended with the designation of personal property.²⁷

Conclusion

4.43 The effect of clause 103 of the Clean Energy Bill 2011 is to make clear that a carbon unit issued under the mechanism is an item of personal property capable of being owned and transferred from one person to another for the purposes of the mechanism. This is intended to clarify the status of the units and provide confidence in their integrity under the mechanism. It also provides clarity on the status of units for the purpose of using them as security or creating equitable interests in them.

Links between the mechanism and international emissions reduction schemes

Background

4.44 The links between the mechanism and international greenhouse gas pollution reduction schemes has been a matter of some interest and, for some, controversy, in the development of the mechanism.

²⁷ Professor Lee Godden, University of Melbourne, *Committee Hansard*, Canberra, 26 September 2011, p. 53.

4.45 The use of international permits in the mechanism is intended to link it to overseas emissions trading schemes. In *Securing a Clean Energy Future: the Australian Government's climate change plan*, the Government said:

International linking of carbon markets will allow businesses that release carbon in one country to be matched up with businesses in other countries that are able to reduce their carbon pollution at lower costs. International linking encourages action to reduce carbon pollution around the world, and plays an important role in helping developing countries adopt clean technologies.²⁸

4.46 The mechanism will link to overseas emissions trading markets by allowing liable entities under the mechanism to surrender eligible international units from 1 July 2015, which is the commencement of the flexible charge period. The ability of liable entities to do this is subject to both quantitative and qualitative restrictions:

- from 1 July 2015 to 1 July 2020, liable entities must meet at least 50 per cent of their liability under the mechanism with carbon units issued under Australia's scheme. If the liable entity surrenders eligible international units which total more than 50 per cent of its liability under the mechanism, then the excess number of units will not count towards the meeting of the entity's liability for that year, but will be carried forward to the next year.²⁹
- the Government may also, by regulation, disallow the eligibility of certain international units to ensure that only credible international units are used to meet liabilities under the mechanism. This is intended to reinforce the environmental integrity of the mechanism and support Australia's compliance with its international obligations.³⁰

Analysis

International linking and the mechanism

4.47 The committee received correspondence expressing concern about the appropriateness of using international units in meeting Australia's greenhouse gas emissions reduction efforts.

28 Australian Government, *Securing a Clean Energy Future: the Australian Government's climate change plan*, 2011, pp. 30-31.

29 Clause 133(7) of the Clean Energy Bill 2011.

30 Clause 123 of the Clean Energy Bill 2011.

- 4.48 International abatement efforts will allow Australian companies to access potentially cheaper international units, which reflect the higher degree of environmental effectiveness of greenhouse gas emissions reduction efforts represented by those units. Mr Comley, the Secretary of DCCEE, provided an example of this, in the context of aluminium production:

It is far from clear that the emissions intensity of aluminium from any source around the world is higher than Australian aluminium. The principal reason for that is that aluminium is often referred to as congealed electricity. The most important source of emissions for aluminium is the electricity used in the production. Around the world aluminium is produced from a range of sources, many of which have lower emissions intensity in terms of electricity supply than in Australia. Aluminium has been assessed as a high emissions intensive activity under the Renewable Energy Target Scheme and one would expect that when the regulations are produced for this package it will also be found to be a high emissions intensive activity.³¹

- 4.49 The committee was told that not including the ability to link to international greenhouse gas emissions reduction efforts would have a serious and significant effect on the operation of the mechanism and the cost of reducing Australia's emissions. The Treasury explained the impact on the mechanism of not linking to overseas schemes:

Treasury has found that forgoing cheaper international sources abatement would roughly double the economic cost of achieving the 2020 target. This is analysis that was released in the *Strong Growth, Low Pollution* report. If there were no ability to import permits then you would need a higher carbon price within Australia. That higher carbon price would be what would drive the higher economic cost.³²

The Treasury also noted that the estimated carbon price that would be necessary in Australia in the absence of international trading would be '[s]omewhere around \$62 or above'.³³

- 4.50 By contrast to suggestions that international linking is problematic by its nature, the committee received evidence that the bills do not go far enough in permitting international linking, and that the bills, by imposing

31 Mr Blair Comley DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 8.

32 Ms Meghan Quinn, The Treasury, *Committee Hansard*, Canberra, 21 September 2011, p. 4.

33 Ms Meghan Quinn, The Treasury, *Committee Hansard*, Canberra, 21 September 2011, p. 4.

some constraints on the ability of companies to link internationally, impose greater costs in achieving Australia's domestic greenhouse gas emission reduction task. For example, the Australian Industry Greenhouse Network, which represents a broad range of Australian businesses and business groups, said that :

the least-cost outcome requires a broad global price and broad global coverage. Unless we have both those things, we do not achieve a least-cost outcome. How is that done? We do not necessarily have to link with every other scheme in the world. Indeed, as a likely net buyer of international permits, we need to link with those countries that are the sellers. We do not know who those countries are at the moment, other than through the CDM [Clean Development Mechanism], and we are extremely concerned that in these bills there is a suggestion of a policy, if you like, that the regulations that will allow the purchase of international permits are going to be restricted in terms of their eligibility. That is going to be another area where these bills are going to cost far more than they should.³⁴

The use of government funds in acquiring international permits

- 4.51 Some evidence given to and correspondence received by the committee expressed concerns that taxpayer funds will be applied by the Government to the purchase of international units so that the mechanism may function properly³⁵ or that the Government would need to make payments to international organisations concerning greenhouse gas emissions reduction.
- 4.52 The bills provide that liable entities (which might include specific government agencies or enterprises) under the mechanism may use eligible international emissions units (subject to conditions) to meet their liabilities under it.³⁶
- 4.53 The bills do not provide for general acquisition of international units by the Government for the purposes of meeting Australia's international greenhouse gas pollution reduction commitments, nor is there any requirement or provision under the legislation requiring payments to international organisations.
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34 Mr Michael Hitchens, Australian Industry Greenhouse Network, *Committee Hansard*, Canberra, 26 September 2011, p. 27.

35 Mr Stuart Allinson, Exigency Management Pty Limited, *Committee Hansard*, Melbourne, 27 September 2011, p. 16.

36 See Division 3, Part 4 and Division 2, Part 6 of the Clean Energy Bill 2011.

Concerns about the integrity of links to overseas schemes

4.54 The Clean Energy Bill 2011 allows for the mechanism to be linked to specified overseas schemes, which means that permits issued under those schemes may be used to meet liabilities under the mechanism, subject to conditions set out in the legislation. Mr Comley, the Secretary of DCCEE, said:

The bill provides a framework in which you can link to schemes. If part of the question is: what schemes do we envisage at the moment as being the most prospective to link to? I think there are probably three schemes that are the most prospective to link to in the first instance. The first is the CDM market under the UNFCCC, the Clean Development Mechanism market. The second is the European Union Emissions Trading System. The third is the New Zealand Emissions Trading Scheme. They seem to be the most prospective at the moment. The main reason that they are the most prospective at the moment is that they have already been established, so there is a track record with them. They also conveniently fit under the Kyoto protocol, so they have the common accounting mechanisms and assumptions that would be applied to those schemes. It is possible that other schemes would be available for linking over time, but they are the most prospective at this stage.³⁷

4.55 The committee also received correspondence which expressed concerns that the use of international units will allow for rorting and fraud, and the use of non-credible units from countries with poor accountability in their greenhouse gas reduction schemes. Furthermore, some submitters expressed concerns about the way in which international trading schemes have worked, and that these posed both a bad example for Australia and a risk when linking to them, particularly the EU and New Zealand emissions trading schemes.³⁸

4.56 General concerns about the potential risks of links to overseas schemes are to be contrasted with publicly available assessments of their performance, which suggest that both the EU and NZ schemes are effective, albeit with room for improvement (which is acknowledged by both the EU and the NZ Government in making improvements to their respective schemes

37 Mr Blair Comley, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 3.

38 Exigency Management Pty Limited, *Submission 43*; See Mr George Christensen MP, *Committee Hansard*, Canberra, 26 September 2011, p. 46.

over time). Both of these schemes are broadly similar to the mechanism set out in the bills, in that they are 'cap and trade' schemes.

The EU emissions trading scheme³⁹

The EU's emissions trading scheme (ETS) covers the 27 EU member states, along with Iceland, Liechtenstein and Norway. It covers a total population of around 500 million people.

The scheme covers CO₂ emissions from power generation, manufacturing, oil refining and nitrous oxide emissions. Facilities covered by the scheme account for almost half of the EU's CO₂ emissions and 40 per cent of its total greenhouse gas emissions. The scheme will cover airline emissions from 2012 and will expand in 2013 to cover the petrochemicals, ammonia and aluminium industries and to additional gases.

Like the mechanism, the EU ETS is a 'cap and trade' scheme. It imposes a limit on the total amount of certain greenhouse gases that can be emitted by those covered by it. Within the cap, companies receive emission allowances which they can sell to or buy and the limit ensures that allowances have a value.

At the end of each year each company must surrender enough allowances to cover all its emissions, or be subject to penalties. Companies can bank surplus allowances for future use. The total limit is reduced over time to reduce total emissions, and in 2020 emissions will be 21 per cent lower than in 2005.

4.57 The EU ETS commenced with a pilot phase, which was designed to allow for improvements to be introduced where issues were identified with the scheme. This phase lasted from 2005 to 2007 and resulted in some significant changes being made to improve the practical operation of the EU ETS in 2008-09.⁴⁰

4.58 The principal recent concern with the EU scheme has been a series of major frauds, which led to the closure of several national trading markets in early 2010. It is noteworthy that the form of this fraud was not uniquely related to an emissions trading scheme, and reflected longstanding forms of financial market fraud such as cyber hacking, 'phishing', and 'missing trade frauds' which are - unfortunately - well known to international and

39 See <http://ec.europa.eu/clima/policies/ets/index_en.htm> accessed 5 October 2011.

40 See Council of the European Union *Council adopts climate-energy legislative package*, 6 April 2009 <http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/misc/107136.pdf> accessed 5 October 2011.

national financial market regulators and law enforcement agencies. In July 2011, the European Commission acknowledged deficiencies existent in some European emissions trading markets and announced strengthened provisions to better combat these forms of fraud and to protect the integrity of the market, in line with financial market regulation.⁴¹

The New Zealand emissions trading scheme⁴²

The New Zealand ETS was implemented in 2008.

The NZ ETS covers the forestry, transport fuels, electricity production, industrial processes, synthetic gases, agriculture and waste sectors and emissions the six greenhouse gases covered by the Kyoto Protocol. The NZ ETS will include all sectors of the NZ economy and all greenhouse gases by 2015. It is also internationally linked and reflects international climate change rules. Compliance is achieved through self-assessment for monitoring, reporting and verifying emissions produced by participants.

After its election in 2008, the Key Government made modifications to the original design of the ETS. It introduced a transition phase to the scheme between 1 July 2010 and 31 December 2012, during which, participants can buy emission units from the NZ Government for a fixed price of \$25. In addition, participants in the energy, industrial and liquid fossil fuel sectors will have to surrender only one emission unit for every two tonnes of emissions they produce during that period. The NZ ETS will be completely implemented by 2015.

4.59 The New Zealand Ministry of the Environment recently received a report by an independent Panel on the implementation of the scheme. While the Panel noted that it was early days and final conclusions about the NZ ETS could not be made, it also found that the general impression received from submissions was that:

the impact of the ETS has been low for most submitters given the transitional measures in place (i.e. the fixed price option, the one-for-two surrender obligation, and free allocation of New Zealand emission units (NZUs)) and the short period of time that

41 See Directorate-General on Climate Action, *Questions and Answers on emissions trading: new registry rules*, 8 July 2011, <<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/11/495&format=HTML&aged=0&language=EN&guiLanguage=en>> accessed 5 October 2011.

42 See <<http://www.climatechange.govt.nz/emissions-trading-scheme/about/basics.html>> accessed 5 October 2011.

some sectors have faced obligations. For example, business and industry representatives noted the ETS had not had a significant impact on investment decisions and competitiveness. Most submitters noted the ETS had not yet incentivised behavioural changes nor had it resulted in significant reductions in domestic emissions. The Panel also noted a Ministry of Economic Development business survey which found that for the majority of businesses surveyed the ETS is unlikely to have had such a marked effect on costs that they have had to reduce their energy consumption or emissions.⁴³

4.60 In its submission to the committee, Westpac noted that:

the implementation of the NZ ETS has been remarkably smooth for such a new market established by regulation and particularly considering current global economic conditions. Considering its size, the market is reasonably efficient and liquid. Participants have good indications of where carbon units are trading and the market has linked well with the international market.⁴⁴

Quantitative and qualitative restrictions on the use of international units

4.61 The Clean Energy Bill 2011 permits liable entities under the mechanism to use eligible international units⁴⁵ to meet their liabilities, subject to a range of quantitative and qualitative restrictions, which DCCEE explained to the committee:

The Clean Energy Bill contains provisions to apply both quantitative and qualitative restrictions on the use of international units. Regarding the quantitative restrictions, in the fixed price period there will be no ability for liable entities to surrender their units against liabilities; that comes into play in the flexible price period only. There is a provision in clause 133 of the main bill that allows liable entities to surrender only 50 per cent of their liabilities in terms of international units.

The qualitative provisions define exactly what sort of international units are eligible to be surrendered and these are found, essentially, in the Australian National Registry of Emissions Units

43 Emissions Trading Scheme Review Panel *Doing New Zealand's Fair Share: ETS Review 2011 Final Report* Wellington, 2011, pp. 17-18 <<http://www.climatechange.govt.nz/emissions-trading-scheme/ets-review-2011/index.html>> accessed 5 October 2011.

44 Westpac Banking Corporation, *Submission 12*, p. 7.

45 See section 4 of the *Australian National Registry of Emissions Units Act 2011*. See also Explanatory Memorandum - Clean Energy Bill 2011, paragraphs 3.100-3.103.

Act, which was passed recently by the parliament. The definition of eligible emissions units includes certain units under the Kyoto protocol, including certified emission reductions, emission reduction units and removal units that result from forestry and other land activities.

Additional international units might be prescribed in regulations if there was, for example, bilateral linking with another country or if a new international scheme gave rise to new types of international units. The legislation, and existing legislation, broadly sets out the types of units which would be available to liable entities to surrender, but there are also restrictions that can be added through regulations to exclude units if they are found subsequently not to have the level of environmental integrity that international units are required to have.⁴⁶

4.62 The quantitative restriction applies only for the first five years of the flexible charge period, commencing on 1 July 2015.⁴⁷

4.63 The Clean Energy Bill 2011 also includes provisions which allow for specific types of international permits to be proscribed from use in meeting liabilities under the mechanism.⁴⁸ The intention of this power is to ensure that the Government may take timely and effective action to prevent the future use of international permits about which concerns exist as to their integrity. The reasons were further explained by DCCEE:

If concerns do arise about the integrity of particularly international units, the minister may prohibit their surrender through regulations under clause 123 of the main bill. The minister may also cancel the eligibility of any units that are prescribed in regulations simply by amending those regulations under the national registry act. This could happen very quickly, but there is a provision that allows liable entities to use any units that they already hold for the purpose of that financial year. This provision is there so that people who purchase these on a bona fide basis are not disadvantaged by changes in opinion about those units but they would not be able to use those units for subsequent compliance periods.⁴⁹

46 Mr Tas Sakellaris, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, pp. 3-4.

47 Clause 133(7) of the Clean Energy Bill 2011.

48 Clause 123 of the Clean Energy Bill 2011.

49 Mr Tas Sakellaris, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 4.

4.64 Other submitters expressed concerns that Australian entities may use permits derived from overseas activities which are environmentally questionable. The bills include provisions which impose qualitative restrictions on international emissions units, which are designed to ensure that such units cannot be used to meet liabilities under the mechanism.⁵⁰ In evidence to the committee, DCCEE noted that:

[t]he government has already made announcements that certain additional types of units will be excluded from surrender provisions, and that includes nuclear projects because these are not allowed under the Kyoto rules. The government has also indicated that it will exclude units arising from the destruction of certain industrial gases – trifluoromethane and nitrous oxide, which is used in the production of adipic acid – it will also exclude large-scale hydroelectric projects that are not consistent with criteria that have already been adopted by the European Union and are based on the World Commission on Dams' guidelines. In addition, the minister would also have the capacity to prohibit even the entry of units that are not acceptable in terms of environmental integrity. This is in addition to surrender restrictions. In addition the minister would also have the capacity to prohibit even the entry of units that are not acceptable in terms of environmental integrity. So there is an addition to surrender restrictions.⁵¹

4.65 The inclusion of these powers to impose restrictions by the Government causes concerns among some, who would prefer that the market be able to use international units with minimal prospect of their being removed from use through government intervention.⁵² However, the committee also notes that the Government made adjustments to these provisions after the consultation on the exposure draft bills, to take account of these concerns and to provide greater certainty to those seeking to use international units by allowing those holding disallowed units to surrender them up until the end of the eligible financial year in which they were disallowed.⁵³

50 See clause 123 of the Clean Energy Bill 2011. See also Clean Energy Bill 2011 - Explanatory Memorandum, paragraphs 3.104-3.111 and Australian Government, *Securing a Clean Energy Future: the Australian Government's climate change plan*, 2011, Table 8 on p. 107.

51 Mr Tas Sakellaris, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 4.

52 Origin Energy, *Submission 18*; Mr Michael Hitchens, Australian Industry Greenhouse Network, *Committee Hansard*, Canberra, 26 September 2011, p.27; Australian Industry Greenhouse Network, *Submission 33*, p. 7.

53 See Appendix D. See also Mr Nathan Fabian, Investors Group on Climate Change, *Committee Hansard*, Sydney, 28 September 2011, p. 10; see also Australian Financial Markets Association, *DCCEE Submission 18*, p. 6; Australian Industry Greenhouse Network, *DCCEE Submission 21*,

Actual experience of international linking

4.66 Lastly, the committee also received evidence about the actual experience of the use of international permits in New Zealand, which is a market where the use of international permits is permitted. Westpac said that:

within the New Zealand scheme, even though there is the ability to meet your compliance obligations with 100 per cent international permits, around 98 per cent of the permits acquitted were actually New Zealand compliance units. While that may be slightly different this year on account of the fact that the international units have come down, it demonstrates that ultimately companies are looking to acquit their liabilities using the domestic permits as a first step.⁵⁴

Conclusion

4.67 The committee has considered the views expressed about the need for and the manner of international linking raised in correspondence and submissions.

4.68 The provisions in the bills concerning international linking deliver the policy intention of creating a least-cost approach to greenhouse gas emissions reduction in Australia, while also linking to international efforts to reduce global greenhouse gas emissions.

4.69 The mechanism does not require the Australian Government to use taxpayer funds to purchase international emissions units to ensure that Australia meets its international commitments to reduce greenhouse gas emissions.

4.70 There would be significant additional costs with a mechanism which does not allow for international linking, and preventing international linking would effectively double the cost of meeting Australia's greenhouse gas emissions reduction targets.

4.71 The committee notes the restrictions in clause 123 of the Clean Energy Bill 2011 on the use of international units and the efforts of the Government to accommodate concerns about the application of these restrictions in the drafting of the bills. The treatment of this issue in the bills represents an

p. 10; Investors Group on Climate Change, *DCCEE Submission 140*, pp. 6-7; Law Council of Australia, *DCCEE Submission 151*, pp. 14-15; Westpac Banking Corporation, *DCCEE Submission 260*, pp. 6-7.

54 Ms Emma Herd, Westpac Banking Corporation, *Committee Hansard*, Sydney, 28 September 2011, p. 20.

appropriate balance between allowing for broad international linkage, while at the same time reflecting the need to ensure the ongoing environmental integrity and security of Australia's carbon pricing mechanism over time.

- 4.72 The powers in clause 123 of the Clean Energy Bill 2011 provide the ability for the Government to take appropriate action if evidence emerges that particular international emissions units are compromised, while recognising the legitimate concerns of businesses in ensuring such action is not arbitrary.
- 4.73 Australia's financial market regulatory framework has proven its robustness over time. The committee notes that the bills will complement this framework and that provision is made for the cooperation of the Clean Energy Regulator with Australia's national economic regulators, including ASIC, and with law enforcement agencies, including the Australian Federal Police and the Australian Reporting and Transaction Analysis Centre (Austrac).
- 4.74 The bills were prepared after the security problems emerged in the EU, and the Government has included appropriate and proportionate features in the bills which address the sorts of issues which arose in the EU ETS, including:
- the regulation of carbon units as financial products under Australia's financial services laws, with additional oversight by the Australian Securities and Investments Commission;⁵⁵
 - provision for appropriate actions to be taken by the Regulator concerning suspicious activity on the Registry through amendments to the ANREU Act⁵⁶; and
 - compliance and enforcement powers for the Clean Energy Regulator, which allow for proportionate action to ensure ongoing compliance and swift action to address conduct designed to undermine the integrity of the mechanism and obtain unlawful financial and other advantages.⁵⁷

55 See Schedule 1, Part 2, items 47, 48, 256A, 259, 260 of the Clean Energy (Consequential Amendments) Bill 2011.

56 See Schedule 4 of the Clean Energy (Consequential Amendments) Bill 2011.

57 See Parts 13, 14, 15, 16, 17, 18, 19 and 20 of the Clean Energy Bill 2011.

The Jobs and Competitiveness Program

Background

- 4.75 Many submissions received by the committee and by DCCEE concerning the bills covered the assistance available to emissions-intensive, trade-exposed (EITE) activities through the jobs and competitiveness program (the Program).⁵⁸
- 4.76 The Program provides for the annual delivery of free carbon units concerning EITE activities as defined by the Program. The Program is set out in Part 7 of the Clean Energy Bill 2011, with other elements of it contained in Part 9 and 11.
- 4.77 The Explanatory Memorandum states that:
- The Program provides significant support for jobs and protects the competitiveness of these emissions-intensive trade-exposed industries from risks for emissions-intensive trade-exposed activities to be located in, or relocated to, foreign countries as a result of different climate change policies applying in Australia compared to foreign countries. The Program also ensures that industry, local communities and workers have a smooth transition to a clean energy future.⁵⁹
- 4.78 Under the Program, the Government will provide assistance on an activity basis to ensure that it is well targeted and is equitably distributed within and across industries.⁶⁰ The assistance will be provided for the following:
- the direct emissions associated with an activity, that gives rise to an obligation under the mechanism, which can be discharged by surrendering eligible emissions units;
 - the emissions associated with the use of steam in an activity;
 - the cost increase associated with the indirect emissions from the use of electricity in an activity, which is assessed as resulting from the introduction of the mechanism;

58 See, for example, National Lime Association of Australia, *Submission 4*, Association of Mining and Exploration Companies Inc., *Submission 8*, CSR Limited, *Submission 20*, Australian Aluminium Council, *Submission 24*, ATCO Gas Australia Limited, *Submission 25*, Rio Tinto Limited *Submission 29*, Cement Industry Federation, *Submission 32*.

59 Clean Energy Bill 2011 - Explanatory Memorandum, paragraph 5.2.

60 The Program is explained in detail in Explanatory Memorandum - Clean Energy Bill 2011, Chapter 5.

- the cost increase related to the upstream emissions from the extraction, processing and transportation of natural gas and its components, such as methane, used as feedstock and sequestered by an activity.
- 4.79 In receiving assistance under the Program, businesses must meet certain eligibility requirements, which are assessed based on an emissions intensity and trade exposure test:
- trade-exposure is to be assessed for trade shares (the ratio of the value of imports and exports to the value of domestic production) being greater than 10 per cent in any one of the 2004-05, 2005-06, 2006-07 or 2007-08 financial years, or there being a demonstrated lack of capacity to pass-through costs due to the potential for international competition.
 - emissions-intensity is to be assessed as to whether the industry-wide weighted average emissions intensity of an activity is above a threshold of:
 - ⇒ 1,000 tonnes CO₂-e per million dollars of revenue; or
 - ⇒ 3,000 tonnes CO₂-e per million dollars of value added.
- 4.80 Clause 145 of the Clean Energy Bill 2011 requires the Minister to take all reasonable steps to ensure that these regulations are made before 1 March 2012.
- 4.81 On 21 September 2011, DCCEE commenced a consultation process on the draft regulations implementing the Program. Submissions must be made to the Department by 28 October 2011.⁶¹ As part of the consultation the Government has encouraged firms conducting potential emissions-intensive, trade-exposed activities which have yet not been finalised to submit audited data as soon as possible so that the eligibility of their activity can be assessed under the program. As further activities are assessed as eligible they can be added to the regulations.

Analysis

- 4.82 The committee has received a considerable amount of evidence from businesses and business groups concerning the potential for 'carbon leakage' as businesses may decide to transfer activities overseas to avoid any liability under the mechanism.⁶² The committee also notes the categorical statements about the potentially adverse impacts on Australian
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61 See <http://climatechange.gov.au/government/regulations.aspx> accessed 5 October 2011 for more information.

62 Mr Greg Evans, Australian Chamber of Commerce and Industry, *Committee Hansard*, Canberra, 26 September 2011, p. 34.

industry that have been made in the press and through advertising funded by industry organisations.

4.83 The basis of many of the contentions expressed in these public statements is not always clear, and it was acknowledged by numerous witnesses that certainty about the impacts on specific industry sectors was not possible until the design of the Program and related measures was completed.⁶³

4.84 The stated purpose of the Program is to address the issue of 'carbon leakage' through the provision of appropriate transitional assistance to Australian businesses through the mechanism.⁶⁴ The Government has said:

A Jobs and Competitiveness Program will provide \$9.2 billion over the period to 2014-15 to assist the most emissions-intensive activities in the economy that are exposed to international competition. This will support local jobs, encourage industry to invest in cleaner technologies and avoid 'carbon leakage' offshore.⁶⁵

4.85 Much of the evidence received by the committee dealing with the specifics of the Program may be characterised as proposals which would result in a more favourable treatment of a business activity, either through its inclusion in the Program or through more favourable treatment in the Program.

4.86 As an example of this, the committee received evidence from the Magnetite Network, a consortium of mining enterprises, concerning the treatment of magnetite mining and processing activities under the Program. The Magnetite Network advised the committee that:

The magnetite industry welcomes the government's commitment to provide some sort of support to the industry for the effects of the carbon tax. As I said, we add value in Australia to what are otherwise unsaleable ore bodies in order to produce a high-value product. We have been in dialogue with the government on the design of the carbon tax and its predecessor, the CPRS, for a

63 These issues are discussed at a general level in Chapter 3; see Mr Michael Hitchens, Australian Industry Greenhouse Network, *Committee Hansard*, Canberra, 26 September 2011, p. 29; Mr John Pegler, Australian Coal Association, *Committee Hansard*, Melbourne, 27 September 2011, pp. 68-69; Mr Nathan Fabian, Investors Group on Climate Change, *Committee Hansard*, Sydney, 28 September 2011, p. 14.

64 See Australian Government, *Securing a Clean Energy Future: the Australian Government's climate change plan*, 2011, p.xv and Chapter 5.

65 Australian Government, *Securing a Clean Energy Future: the Australian Government's climate change plan*, 2011, p. 51.

considerable time but, to be frank, it just seems that that is falling on deaf ears. Whilst it finally seems that we might be getting some sort of support, we do not know the form of that. At the moment, as it stands, our industry looks as though it will get nothing. ⁶⁶

- 4.87 The committee notes the concerns of the Magnetite Network and its suggested proposals to amend the bills to accommodate its concerns. The committee, while not forming a view on the issue, recommends that the Magnetite Network continues its present dialogue with the Government to find a way forward on its concerns, as they apply to new and emerging industries.

Conclusion

- 4.88 While there is much debate about the appropriate level of industry assistance, the detailed design of the Program is in the process of development, and the committee notes that the Government is presently consulting on the detailed design of the Program and its application to specific business activities.
- 4.89 The committee encourages EITE businesses to engage in the Government's current consultation process on the detailed design of the Program. It also encourages businesses conducting potential EITE activities which have yet not been finalised to submit audited data as soon as possible so that the eligibility of their activity can be assessed under the program. As further activities are assessed as eligible they can be added to the regulations.

The mechanism and energy generation

Background

- 4.90 A key focus of the mechanism is shifting Australia's economy to cleaner energy sources, reflecting the large role of electricity generation and direct fuel combustion in contributing 52 per cent of Australia's total greenhouse gas emissions. ⁶⁷
- 4.91 Given the significance of reducing energy emissions to the effectiveness of the mechanism and the importance of ensuring ongoing energy security,

66 Mr Bill McKenzie, Magnetite Network, *Committee Hansard*, Sydney, 28 September 2011, p. 48.

67 Australian Government, *Securing a Clean Energy Future: the Australian Government's climate change plan*, 2011, p.13, Figure 2.2

the Government has also announced initiatives to support the energy sector in the transition to a low emissions economy.

4.92 Specifically, the Government will:

- set up a \$5.5 billion Energy Security Fund, to provide assistance to strongly affected generators;
- seek to negotiate a managed and orderly closure of around 2,000 megawatts of highly polluting electricity generation capacity by 2020;
- set up an Energy Security Council, which will advise the Government on emerging risks to energy security and possible support measures;
- plan for a clean energy grid, through asking the Australian Energy Market Operator to expand its planning scenarios to take account of increased renewable energy generation.⁶⁸

4.93 The Government is also proposing a range of energy efficiency measures to assist households and businesses and expediting the development of a national energy savings initiative.⁶⁹

Analysis and conclusions

4.94 The committee received evidence from the Energy Supply Association of Australia (ESAA) suggesting five significant changes required to the legislation, along with a range of specific issues. The issues raised cover a range of concerns, which are dealt with in turn below.

4.95 The ESAA suggests that the assistance measures for the energy sector should:

adequately address the stranding of coal-fired generation assets. A more measured transition to full auctioning of carbon units (as proposed in most other schemes around the world to date) would enable a greater volume of carbon units to be administratively allocated to affected generators to ensure there is no disproportionate loss of economic value on the sector's balance sheets or a rise in costs to such a level as to compromise both the ability to refinance, and/or re-invest in existing power plant.⁷⁰

68 See Australian Government, *Securing a Clean Energy Future: the Australian Government's climate change plan*, 2011, Chapter 7.

69 See Australian Government, *Securing a Clean Energy Future: the Australian Government's climate change plan*, 2011, Chapter 8.

70 Energy Supply Association of Australia, *Submission 1*, p. 2.

- 4.96 The Government is presently consulting on the detailed design of assistance measures to the energy generation sector and that this consultation ends on 13 October 2011.⁷¹
- 4.97 The ESAA also raised two specific issues concerning the provisions of the Clean Energy Bill 2011, namely that the bills should:
- ensure there are no additional working capital requirements for liable entities from the operation of the Clean Energy Bill 2011, including from taxation and auctioning;
 - provide longer term certainty to the sector by committing to ten years of rolling scheme caps followed by a ten-year rolling gateway. This is necessary to support the development of the emissions market in Australia and because global emissions prices do not provide sufficient long term information in isolation.⁷²
- 4.98 In considering these concerns, the committee notes that:
- the detailed auction design will be set out in regulations⁷³, which are in the process of development by the Government and will require consultation with business groups to ensure that it is both effective and efficient;
 - the degree to which practical compliance issues may be addressed through guidance from the Clean Energy Regulator; and
 - the need in the bills to ensure a balance between long-term certainty and a degree of flexibility in the ongoing administration of the mechanism, which can serve the interests of businesses and investors.
- 4.99 ESAA suggests that the mechanism should ‘cover the greatest proportion of greenhouse gas emissions possible’, because ‘measures that only target a subset of sectors of the Australian economy are unlikely to lead to least cost abatement’.⁷⁴
- 4.100 The committee has received evidence from numerous witnesses to the effect that an emissions trading scheme needs to cover as much economic activity as possible to be as effective as possible.⁷⁵ The committee accepts
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71 See <<http://climatechange.gov.au/government/regulations.aspx>> accessed 5 October 2011.

72 Energy Supply Association of Australia, *Submission 1*, p. 2.

73 See clause 113 of the Clean Energy Bill 2011.

74 Energy Supply Association of Australia, *Submission 1*, p. 2.

75 Mr Michael Hitchens, Australian Industry Greenhouse Network, *Committee Hansard*, 26 September 2011, p.27; Mr Brendan Pearson, Minerals Council of Australia, *Committee Hansard*, 27 September 2011, pp.75-76; Ms Emma Herd, Westpac Banking Corporation, *Committee Hansard*, 28 September 2011, p.15 Mr Simon Kelley, AGL Energy Limited, *Committee Hansard*, 28 September 2011, pp.24-25.

this basic proposition, but also notes need to balance this with the practical effects of application in some cases, including whether there are more efficient mechanisms to achieve the same objective. To this end, the committee notes that the mechanism does not cover a range of activities, including emissions from:

- fuels subject to excise or customs duties (noting that there is an equivalent carbon price applied to some of these through the fuel tax system);
- agricultural activities;
- land use (except landfills);
- combustion of biomass, biogas and biofuels;
- fugitive emissions from decommissioned underground mines;
- waste deposited in landfill facilities prior to 1 July 2012;
- closed landfill facilities;
- synthetic greenhouse gases (noting that there is an equivalent carbon price applied to these through the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*); and
- scope 2 and scope 3 emissions, as defined in the NGER Act.⁷⁶

4.101 In *Securing a clean energy future: the Australian Government's climate change plan*, the Government noted that:

Over half of Australia's emissions will be directly covered by the carbon pricing mechanism and around two-thirds will be covered by a carbon price applied through various means.⁷⁷

4.102 Lastly, the ESAA requests that the Government should:

ensure retail price regulation is removed for electricity and gas. Efficient prices are necessary to provide the appropriate signals for consumption and new investment and without full cost pass-through the viability of retailers and the entire electricity and gas supply industry is at risk.⁷⁸

4.103 The regulation of retail prices for electricity is a matter within the responsibility of state and territory governments. The committee notes

⁷⁶ See clause 30 of the Clean Energy Bill 2011.

⁷⁷ Australian Government, *Securing a Clean Energy Future: the Australian Government's climate change plan*, 2011, p. 27.

⁷⁸ Energy Supply Association of Australia, *Submission 1*, p. 2.

that Victoria has removed retail electricity price regulation and that there is a process under the Australian Energy Market Agreement to review retail price regulation in all jurisdictions. The committee also notes that the recent experience of consumers in dealing with retail electricity price rises is, in large part, attributable to the holding back by state and territory governments of historical cost increases caused by necessary infrastructure investment.⁷⁹

4.104 The effective management of electricity demand is an important factor in ensuring more efficient use of electricity by consumers. The committee understands that one way in which this can be achieved is in ensuring that consumers are aware, through a price signal, of the true value of energy at particular times, particularly times of peak demand. There are also other mechanisms to manage demand, including through encouraging energy efficiency, which will be supported as part of the related programs encompassed by the Government's policy.⁸⁰

4.105 At the same time, the committee is aware of concerns that removing price regulation may impose additional costs on consumers, particularly vulnerable consumers.⁸¹ However, the committee also notes that there are ways in which these concerns can be managed through community service obligations and assistance to vulnerable consumers.⁸² The committee also notes the household compensation which will be provided as part of this Package, which is, in part, designed to compensate consumers for increased prices for energy.⁸³

79 See the Hon Martin Ferguson AM MP *Strategic priorities for Energy Market Development*, 1 April 2011
<<http://minister.ret.gov.au/MediaCentre/Speeches/Pages/StrategicPrioritiesforEnergyMarketDevelopment.aspx>> accessed 5 October 2011.

80 For example, the Government has announced a household advice line and support service on energy efficiency through Living Greener, the adoption of new standards of energy efficiency for appliances and other consumer products and the Renewable Energy Bonus, which helps households replace electric hot water systems with more efficient alternatives. See Australian Government, *Securing a Clean Energy Future: the Australian Government's climate change plan*, 2011, Chapter 8.

81 See Mr Damian Sullivan, Brotherhood of St Laurence, *Committee Hansard*, Canberra, 26 September 2011, pp.57-58.

82 See Ms Susan Helyar, UnitingCare Australia, *Committee Hansard*, Canberra, 26 September 2011, p. 62; Mr Damian Sullivan, Brotherhood of St Laurence, *Committee Hansard*, Canberra, 26 September 2011, p. 63.

83 See 'The effectiveness of household compensation arrangements' below.

The powers of the Clean Energy Regulator

Background

- 4.106 The Energy Supply Association of Australia raised concerns about the scope of the Clean Energy Regulator's information-gathering powers and monitoring powers, including that powers should be contained to circumstances where the Regulator has a reasonable belief that breach or non-compliance has occurred.⁸⁴ These concerns express similar views to those raised in the press at the time the bills were exposed in draft.⁸⁵

Analysis

- 4.107 The Explanatory Memorandum for the Clean Energy Bill 2011 explains that:

The Regulator has broad powers to gather information to let it monitor compliance with the mechanism, investigate possible contraventions and, where necessary, take enforcement action. These powers reflect the nature of the mechanism, under which liable entities must actively comply with its requirements, as well as avoid contravening the law.⁸⁶

- 4.108 The Clean Energy Bill 2011 defines the powers of the Clean Energy Regulator and its staff in some detail with regard to monitoring, investigation and enforcement powers⁸⁷, and the reasons for the nature of these powers are explained in the Explanatory Memorandum.⁸⁸ Furthermore, civil penalties and criminal sanctions may only be applied by a court, and not the Regulator.
- 4.109 The obligations created by the bills are imposed on a limited class of persons, namely liable entities, and those who may be in some way connected with their participation in the mechanism.

84 Energy Supply Association of Australia, *Submission 1*, p. 3.

85 The Hon Greg Hunt MP "Real power to go to carbon cops" *Herald Sun*, 22 August 2011 <<http://www.greghunt.com.au/Pages/Article.aspx?ID=2156>> accessed 5 October 2011.

86 Clean Energy Bill 2011 - Explanatory Memorandum, p. 218.

87 See Parts 13, 14, 15, 16, 17, 18, 19 and 20 and clauses 295 and 297 of the Clean Energy Bill 2011.

88 Clean Energy Bill 2011 - Explanatory Memorandum, Chapter 7.

Conclusion

- 4.110 The Clean Energy Regulator is a public body which is required to act in accordance with its legislative remit, and in the public interest. Claims that it could engage in capricious or arbitrary action do not appear to have a basis in the bills.
- 4.111 The mechanism is not simply a prohibitive scheme, whereby people comply by not breaching the law, such as is the case for competition and consumer laws. Rather, liable entities must take active steps to comply with the mechanism, and the role of the Clean Energy Regulator is to:
- facilitate compliance with the mechanism;
 - engage in ongoing monitoring of the integrity and security of the mechanism; and
 - investigate possible breaches of the law; and
 - take enforcement action under the Clean Energy Bill 2011 where justified.
- 4.112 Imposing a limitation on the Regulator of the sort suggested by the ESAA would significantly limit its ability to monitor the ongoing integrity and security of the mechanism, even where there is no suspected breach of the law. This activity could include, for example, the detection of compliance practices which are inefficient or potentially compromise its security, which could be corrected through administrative changes.
- 4.113 The committee is satisfied that the scope of the Clean Energy Regulator's powers is appropriate given its role in promoting compliance with the mechanism and in ensuring its ongoing integrity and security.

The application of the mechanism to liquid petroleum gas

Background

- 4.114 The bills provide that liquid petroleum gas (LPG) is subject to an equivalent carbon price through the fuel tax system.⁸⁹ The committee heard evidence from LPG Australia about the application of the mechanism to LPG, which appears to assume the primary use for LPG is as fuel for transport, despite the wide range of non-transport uses for LPG.

⁸⁹ See Clean Energy (Fuel Tax Legislation Amendment) Bill 2011.

LPG Australia is the peak body for LPG suppliers in Australia. LPG Australia said:

Our industry sector is a little perplexed as to why we are not in the emissions trading scheme, and we welcome the opportunity today to raise those concerns again. The industry is represented by a number of petroleum and marketers in LPG. Our industry has two distinct market segments – the auto gas market segment, where we service about 700,000 vehicles and we also handle the stationary energy market. They are two distinct markets. Those two markets are also serviced by electricity and natural gas.⁹⁰

Analysis

4.115 In evidence before the committee, LPG Australia indicated that the treatment of LPG under the scheme could lead to distortions in treatment, which would leave the LPG sector disadvantaged. Given LPG's status as a cleaner fuel, this appeared to be inconsistent. The specific issues for LPG were discussed in evidence:

Senator MILNE: I want to start with the issue of stationary energy and the competition issue that you set out, where your gas is treated as an excise. Therefore, you have two issues, as I see it. One is cash flow issues because you have to pay an excise on a regular basis; whereas your competitors in other stationary energies do not have to pay their liability until the following February. Your second issue is that, because it is an excise, you do not have the opportunity when we go to a trading market in 2015 to purchase international credits and hedge your liability. Are they essentially the two issues you are trying to draw our attention to in relation to stationary energy?

Mr Neilson: Yes, but I think there is another one as well. There is a flow-on cost that occurs in that exercise because, while we are excluded from the litigation and controlling our carbon costs, the complexity of us remaining in an excise scheme is that we are up for a massive reconciliation program with the Australian Taxation Office to handle our transport excise and then on top of that we have got a carbon excise that we have to try to deal with. We deliver thousands and thousands of cylinders and we would have to reconcile each invoice back. It just does not make sense. How we operate in New Zealand is that when we purchase the product

90 Mr Warring Neilson, LPG Australia, *Committee Hansard*, Sydney, 28 September 2011, p. 7.

and we put it in our storage we pay the carbon tax on that, so we already know what our obligation is in terms of carbon. Under this current regime we would be doing that and all we would simply do is we would adjust that balance with the transport excise and deduct it from the carbon cost. They are the two main things. What will happen is that by remaining in this current mechanism our costs for our consumer will actually increase. So not only do we impair the original consumer but I think we also impair the take-up of a fuel that can provide an enormous contribution to abatement.⁹¹

- 4.116 LPG Australia also indicated that the practical elements of the scheme would impose administrative burdens on the sector, about which they have been in discussions with the Treasury and DCCEE:

We are coming into an excise regime that is not designed for gaseous fuels, therefore it is quite complicated. We have been able to arrange a patch arrangement with the current system where we are now given an additional six-day period for payment. We will have to reconcile our invoices to our customers with our delivery dockets because the legislation says excise is imposed at the delivery point, so when we load a truck that is when excise supplies. We do not know when that fuel will go to a transport person until we see the customer's invoice, so we will have to reconcile each of those invoices back.⁹²

- 4.117 LPG Australia suggested that the issues it raised could be fairly straightforwardly dealt with:

I think it is a matter of clarifying the definitions. If you look at the way that natural gas is going to be handled, the same approach could be taken with LPG. It is just a matter of clarifying the definitions so that you clearly identify the marketer and who has the obligation. The producer will have the obligation. I do not think there are a lot of changes that need to occur. I think the system is reasonably – well, I should not say simplistic. Nothing is simplistic in the way the regulations have come about. But I do not believe there is a great deal of complication there.⁹³

91 Senator Christine Milne and Mr Warring Neilson, LPG Australia, *Committee Hansard*, 28 September 2011, p. 7.

92 Mr Warring Neilson, LPG Australia, *Committee Hansard*, Sydney, 28 September 2011, pp. 7-8.

93 Mr Warring Neilson, LPG Australia, *Committee Hansard*, Sydney, 28 September 2011, p. 9.

Conclusion

- 4.118 The committee has received numerous submissions and heard evidence about specific administrative elements of the scheme. These proposals would, in the view of those putting them forward, improve the operation of the mechanism and the related reforms at a practical level. The committee encourages DCCEE and the Treasury and other relevant agencies to continue their discussions with a view to ensuring the practical operation of the scheme reduces the financial and other costs of compliance.
- 4.119 The evidence provided by LPG Australia suggested a potentially significant implication to the current design of the scheme for the LPG sector, which arises due to the uses of LPG in both stationary energy and transport. While the committee has not have the opportunity to test the arguments put forward by LPG Australia with the Treasury and DCCEE, it urges the departments to examine the proposals made by LPG Australia concerning the treatment of LPG under the mechanism and, where appropriate, refine the provisions to ensure that a carbon price is most efficiently applied to all uses of LPG.

Recommendation 2

- 4.120 **That the Government examine the proposals made by LPG Australia concerning the treatment of LPG under the mechanism and, where appropriate, refine the provisions to ensure that a carbon price is most efficiently applied to all uses of LPG.**

The mechanism and small and medium-sized businesses

Background

- 4.121 The committee received evidence suggesting that the mechanism may give rise to additional costs and compliance obligations for small and medium sized businesses.
- 4.122 The mechanism will apply only to liable entities that have facilities which emit emissions from a facility or a landfill facility that emits 25,000 tonnes CO₂-e or more of greenhouse gas in an eligible financial year or operates a landfill facility that emits 10,000 tonnes CO₂-e or more of greenhouse gas

in an eligible financial year and is within a prescribed distance of a 'designated large landfill facility'.⁹⁴

- 4.123 An equivalent carbon price will apply to certain users of liquid fuels covered by the fuel tax system, as follows:

Table 4.1 Treatment of transport fuels

A carbon price will be applied to:	A carbon price will not apply to:
Domestic aviation	Fuel used by households for transport
Domestic shipping	Light on-road commercial vehicles
Rail transport	Ethanol, biodiesel and renewable diesel
Off-road transport use of liquid and gaseous fuels (except in agriculture, forestry, fisheries)	Gaseous fuels used for on-road transport
	Off-road fuel use by the agriculture, forestry and fishing industries
Non-transport use of liquid and gaseous fuels	Transport fuels when used as lubricants and solvents or in other ways that do not result in emissions

Source *Clean Energy Bill 2011 – Explanatory Memorandum, page 35*

- 4.124 While some small and medium-sized enterprises may have a direct liability, the principal impact on small and medium-sized businesses will be through cost pass through, rather than direct liability under the mechanism.

Analysis

- 4.125 Submissions and correspondence received by the committee suggest that the mechanism may give rise to additional costs and compliance obligations for small and medium sized businesses. For example, Capricorn Enterprise, a regional economic development body based in Rockhampton, told the committee that:

businesses constantly tell me that they are drowning in red tape, their fees and charges are going up, with local government and state government taxes and ultimately this federal tax. The general viewpoint of businesses right across the board is that they are being forced to deal with consistent increases in red tape and they feel that increased charges are being constantly put upon them. That is not my view; it is what our businesses are constantly telling us. Any new tax proposed by any level of government, whether it

94 See Part 3, Division 2, Sub-division B of the Clean Energy Bill 2011.

be federal, state or an increase in local rates, does alarm businesses.⁹⁵

4.126 This view, while based in a legitimate concern about the flow-through impacts of price changes, also suggests a degree of uncertainty as to the actual application of the mechanism and related reforms in the community.

4.127 As the vast majority of small businesses will not be liable entities under the mechanism, they will not face any direct additional compliance burden as a consequence of its implementation. The only potential impacts would be:

- the time and costs associated with:
 - ⇒ changing passing on costs through price changes for the goods and services a small business supplies, which could be incorporated into regular price adjustments made by businesses; and
 - ⇒ making applications for assistance for small to medium-sized enterprises for implementing energy efficiency measures, which must be considered in the light of the potential gains to those businesses as a result of making the changes⁹⁶; and
- ongoing compliance with existing laws concerning competition, fair trading and consumer protection, as they may apply to the responses of small businesses to the impact of the mechanism.

4.128 As noted by Capricorn Enterprise in its evidence to the committee⁹⁷, the Government, in *Securing a clean energy future: the Australian Government's climate change plan*, has stated that:

Small businesses will not have to directly pay a carbon price. They will not be required to undertake any compliance activity or fill out any forms due to the carbon price. When it comes to indirect impacts, most small businesses will not be materially affected. Nevertheless, many small businesses may wish to make a contribution towards the move to a clean energy future. The Government will support these businesses.⁹⁸

4.129 Evidence provided to the committee raised concerns about the impact of increased input costs for small businesses, such as higher costs of

95 Ms Mary Carroll, Capricorn Enterprise, *Committee Hansard*, Sydney, 28 September 2011, p. 38.

96 See Mr Blair Comley, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 23.

97 Ms Mary Carroll, Capricorn Enterprise, *Committee Hansard*, Sydney, 28 September 2011, p. 41.

98 Australian Government (2011) *Securing a clean energy future: the Australian Government's climate change plan*, p. 58.

materials and increased energy costs, and the longer-term impact on their viability, caused by their having to pass these costs onto consumers. The Australian Chamber of Commerce and Industry (ACCI) told the committee that:

the chamber unambiguously represents the views of businesses as energy users but, more particularly, the views of small and medium ranking businesses, which face the prospect of much higher energy prices and also hikes in the prices of their inputs. It is true that these business range across many sectors and have varying degrees of exposure and varying degrees of market power as well. Consequently, these entities will have limited capacity to pass on higher energy prices or higher costs of other inputs. Nor are such businesses able to adjust their processes to substantially alleviate the associated price impacts. Therefore, their earnings and competitiveness will suffer, and so will jobs and expansion opportunities. SMEs have little if any market power to negotiate the rate of carbon pass-through from an upstream supplier. SMEs are likely to have already realised cheap efficiency gains in their businesses to remain competitive and thus have few if any opportunities to cut costs further. SMEs are thinly capitalised and are unable to cope with even marginal cost increases. I would also add that Treasury has ignored the circumstances of small business in their modelling to date.⁹⁹

4.130 Small businesses will not receive compensation under the package, but most will pass on the increased costs that they will face to their customers, remembering that nine out of ten households will receive compensation through the household assistance package. Mr Comley noted that, for example:

... if you think of one which is not particularly emissions intensive in the broad scheme of things – a dry cleaner et cetera – they face little international competition and they would pass [increased costs] on.¹⁰⁰

4.131 The passing on of costs is the principal impact on, and response by, small businesses to the mechanism. In addition, improving efficiency, particularly energy efficiency, will also be important. The fact that the Package includes several programs to assist businesses to reduce energy waste indicates that the Government does not agree with the assertion by

99 Mr Greg Evans, ACCI, *Committee Hansard*, Canberra, 26 September 2011, p. 31.

100 Mr Blair Comley, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 23.

Australian Chamber of Commerce and Industry that small and medium-sized businesses have few if any opportunities to improve efficiency.

4.132 DCCEE also noted that many small business owners would themselves be the recipients of compensation to households and that:

small to medium-sized enterprises would have access to the industry assistance programs that provide for grant based assistance for people putting in energy efficiency programs. Those programs total about \$1.2 billion.¹⁰¹

4.133 Furthermore, small businesses would have the benefit of the increase in the instant small-business asset write-off from \$5,000 to \$6,500, which requires no additional paperwork for small businesses.¹⁰²

4.134 The estimated size of any price increases to be faced by end consumers as a consequence of the mechanism are expected to be modest. These changes would have been passed on by small and other businesses in the supply chain. The Treasury, in its updated modelling report, notes that:

carbon pricing will increase aggregate consumer prices by 0.7 per cent in 2012-13 and that a second increase of 0.2 per cent by 2015-16 is projected, reflecting the move to a floating carbon price and other policy parameters. These effects are small compared with the increase from the Goods and Services Tax introduced in July 2000, and small in the context of movements in consumer prices from year to year. Nothing in this modelling update affects those conclusions.¹⁰³

4.135 The Treasury, in its updated modelling, also noted that the average increase nationally of household electricity bills would be 10 per cent in the period 2013 to 2017 and 8 per cent in the period 2018-2022.¹⁰⁴ These specific price impacts have been factored into the Treasury's overall estimates of cost increases for end consumers, and these could be taken as broadly representative of impacts on small businesses.

Conclusion

4.136 The mechanism is not likely to directly apply to many small businesses as they will not meet the required threshold for coverage, although small

101 Mr Blair Comley, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 23.

102 Australian Government, *Securing a Clean Energy Future: the Australian Government's climate change plan*, 2011, p. 58.

103 The Treasury, *Strong growth, low pollution: Modelling a carbon price – Update*, 2011, p. 2.

104 The Treasury, *Strong growth, low pollution: Modelling a carbon price – Update*, 2011, pp. 11-12.

businesses, like other consumers, will experience some increases in input costs. Based on the Treasury modelling, these impacts are expected to be modest.

- 4.137 Similarly, the fuel tax changes set out in the bills will have limited impact on small businesses at this time. The committee notes that the Government has announced that it will apply an equivalent carbon price through the fuel tax system to heavy on-road vehicles from 1 July 2014, although this is a policy commitment and not part of the bills being considered by the committee.¹⁰⁵
- 4.138 The committee notes that there is a degree of uncertainty among many small and medium-sized businesses about the impact on them of the mechanism and related reforms, and the potential opportunities for them in terms of new sources of investment, energy efficiency programs and other assistance. To some extent this is understandable, given the highly contested nature of the policy in the public arena.
- 4.139 Once the bills are passed, there is clearly a considerable amount of effort required on the part of the Government to inform small and medium - sized businesses about both the actual impacts of the mechanism and also the many opportunities that it and its related reforms present for them.

Coverage of landfill facilities and impacts on local government

Background

- 4.140 The mechanism will apply to certain emissions from landfill facilities, namely:
- emissions from a landfill facility that emits 25,000 tonnes CO₂-e or more of greenhouse gas in an eligible financial year; or
 - emissions from a landfill facility that emits 10,000 tonnes CO₂-e or more of greenhouse gas in an eligible financial year and is within a prescribed distance of a 'designated large landfill facility'.¹⁰⁶
- 4.141 The prescribed distance for smaller landfill facilities is to be prescribed in regulations. The purpose of the coverage of smaller landfills is to prevent

105 Dr Steven Kennedy, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 11.

106 See Part 3, Division 2, Sub-division B of the Clean Energy Bill 2011.

avoidance of liability by landfill operators transferring waste to other landfills.

4.142 While the mechanism will apply to the operation of covered landfills and related activities, it will not cover:

- emissions attributable to waste deposited in a landfill facility prior to 1 July 2012¹⁰⁷;
- emissions from landfill facilities which no longer accept waste and closed prior to 1 July 2012¹⁰⁸;
- emissions from the combustion of biomass, biofuels and biogas¹⁰⁹;
- emissions, other than emissions attributable to the operation of a landfill facility, from changes in the levels of carbon sequestered in living biomass, dead organic matter or soil and that are attributable to land use, changes in land use (including land clearing) or forestry activities.¹¹⁰

Analysis

4.143 Concerns were expressed about the degree to which entities were aware of their liability under the mechanism and the level of reporting requirements imposed by the mechanism on local councils concerning their liabilities for greenhouse gas emissions from covered landfill facilities. Mr Rob Donaldson, Assistant General Manager of the Shoalhaven City Council in NSW, told the committee that:

I suspect that, so far, most local governments around Australia are really struggling to identify from the package information, in any precise terms, what the impacts are going to be on them.¹¹¹

4.144 Shoalhaven City Council has attempted to work through the implications of the mechanism for it, and the committee is grateful for this information. Indeed, as Mr Tony Windsor MP noted during the hearing, it appears that the Shoalhaven City Council is “one of the councils that are actually in front of the game.”¹¹²

107 Clause 30(9) of the Clean Energy Bill 2011.

108 Clause 30(10) of the Clean Energy Bill 2011.

109 Clause 30(3) of the Clean Energy Bill 2011.

110 Clause 30(6) and (7) of the Clean Energy Bill 2011.

111 Mr Rob Donaldson, DCCEE, *Committee Hansard*, Sydney, 28 September 2011, p. 43.

112 Mr Tony Windsor MP, *Committee Hansard*, Sydney, 28 September 2011, p. 45.

Case Study: Shoalhaven City Council¹¹³

Shoalhaven City Council is a regional council on the South Coast of NSW. It is based around the town of Nowra, covers both urban and rural regions, and includes many small communities. It has a population of 100,000, rising to around 300,000 each summer. The Council has annual revenue of \$180 million a year, just under half of which is derived from rates, and much of the rest from various fees and charges.

The Council has annual revenue of \$180 million a year, with about \$50 million derived from rates, and much of the rest from various fees and charges.

The Council estimates that its West Nowra landfill has 49,440 tonnes in gross emissions a year. The Council extracts gas for electricity generation from the landfill, and that reduces its net total emissions to 13,260 tonnes a year. Other Council operations directly or indirectly emit just under 30,000 tonnes of emissions.

The closest large landfills to the West Nowra landfill (that is, with more than 25,000 tonnes of greenhouse gas emissions a year) are run by Shellharbour Council (about 60 kilometres away) and Wollongong City Council (approximately 80 kilometres away).

If the prescribed distance between designated large landfills and smaller landfills is around 60 kilometres, then the Council may have a liability under the scheme for the net emissions from the West Nowra landfill facility, emitted by waste deposited after 1 July 2012, because it exceeds the threshold for small landfills of 10,000 tonnes of emissions a year.

The Council estimates that its liability under the mechanism would be \$40,000 in the first year of the mechanism. This liability would continue until 2055, when the landfill would stop emitting greenhouse gases, but the Council would need to obtain the revenue to cover this future liability in the remaining 15 years of the landfill's life.

If the Council stops energy generation when the landfill stops accepting waste, it estimates that it would need to recover \$1 million a year from the operation of the landfill for those remaining 15 years to cover its future liability. If it continues to generate energy, the annual revenue required would reduce to \$450,000 per year.

In addition to this, the Council has estimated, based on the Treasury's modelling, that it will incur:

- a 0.7 per cent increase in input costs, which would total \$760,000 a year;
- an \$8,900 annual increase in nett non-transport fuel costs;

113 See Shoalhaven City Council, *Submission 54*.

- electricity and gas cost increases of \$285,000 per year, if the impact of the carbon price is passed on to consumers by power providers; and
- (subject to the intended introduction of carbon pricing in 2014-15) heavy vehicle fleet fuel cost increases of \$25,000 per year.

The Council is also aware of potential opportunities available to it under the reforms contained in these bills, including investment from the Clean Energy Finance Corporation, the Australian Renewable Energy Agency, industry and community assistance through schemes like the Clean Energy Skills Program and the Low Carbon Communities Program.

4.145 Many local councils do not currently report under NGERs, established by the *National Greenhouse and Energy Reporting Act 2007*.¹¹⁴ DCCEE noted that:

the government will have and does already have an engagement strategy for waste facilities for people who may be liable under those facilities and has published estimates and is currently running workshops for anyone who may be liable in those arrangements. We do not go out and directly identify companies in that manner. Companies will be liable if they exceed the threshold – if they produce more than 25,000 tonnes of emissions.¹¹⁵

4.146 It is also important to note that, in cases where local councils contract the operation of their landfill facilities to third parties, such as waste management services providers, liability under the mechanism lies with the operator of the facility, and not the local council.¹¹⁶

4.147 Local governments that incur additional costs as a result of the mechanism may pass those costs onto ratepayers, or through increases to fees and charges for local council services. In response to a question from Mr George Christensen MP, Shoalhaven City Council noted that:

Mr CHRISTENSEN: There are some things that you as a council will not be able to change. There will be cost impacts. You are

114 NGERs is a system for the reporting of greenhouse gas emissions and energy use. It has been in place since mid-2007. DCCEE noted that around 500 liable entities already report greenhouse gas emissions under the *National Greenhouse and Energy Reporting Act 2007* (NGER Act), and that this would continue under the mechanism: Dr Steven Kennedy, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 14. NGERs will be the basis for the reporting of emissions under the mechanism.

115 Dr Steven Kennedy, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 14.

116 Ms Jenny Wilkinson, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 14.

saying that if those are not being fully compensated, the costs will have to be passed on to ratepayers?

Mr Donaldson: Yes. There is one thing that we are not clear about. In New South Wales we operate with rate pegging and the state government determines, on a default setting, what revenue increases the council will be able to work with. It is not clear to us how the carbon price impacts would flow through in the rate pegging determination, bearing in mind that less than half of our revenue comes from rates.¹¹⁷

- 4.148 DCCEE, in evidence to the committee, also noted the opportunities available to local councils, whether covered by the mechanism or not, under the related Carbon Farming Initiative (CFI) to generate additional income through the sequestration of carbon in the land or the generation of clean energy¹¹⁸ and through other programs. DCCEE noted that:

that legislative framework [the *Carbon Credits (Carbon Farming Initiative) Act 2011*] provides landfill operators and councils with the opportunity to generate carbon credits as a result of action like flaring methane from landfill.¹¹⁹

- 4.149 DCCEE also noted that a methodology would be prepared to assist the operators of landfill facilities with measuring the credits they may obtain through carbon farming projects prior to the commencement of the CFI on 1 December 2011.¹²⁰

- 4.150 Awareness of these and other opportunities among local governments is limited, but developing. The evidence of the Shoalhaven City Council showed that it was aware of these initiatives, but that there was some way to go to understanding how the Council could benefit from them. In its submission, it noted that “[t]hese programs may well offer significant partnership opportunities for council to advance energy efficiency and renewable energy.”¹²¹ The Australian Local Government Association noted that:

the CFI is still comparatively new for local government and the councils are trying to get a basic understanding of what the CFI

117 Mr George Christensen MP and Mr Rob Donaldson, Shoalhaven City Council, DCCEE, *Committee Hansard*, Sydney, 28 September 2011, p. 46.

118 Ms Jenny Wilkinson, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 14; Mr Blair Comley DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 15.

119 Ms Shayleen Thompson, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, pp. 14-15.

120 Ms Shayleen Thompson, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 15.

121 Shoalhaven City Council, *Submission 54*, p. 7.

means to them. The Australian Local Government Association has been working with the department to better understand what the opportunities might be. In the near future we would hope to be able to assist councils with information so that they can realise some opportunities that the CFI might provide.¹²²

4.151 Mr Pritchard went on to say:

We certainly encourage the government to provide assistance to encourage councils to understand the opportunities and take advantage of the CFI. We think that, once councils do understand the opportunities, CFI will be used extensively, and in fact it may be that with CFI opportunities demand might exceed supply.¹²³

4.152 In its evidence, the Shoalhaven City Council noted that programs to encourage investment in cleaner energy and energy efficiency are ‘an opportunity to help us shift the way we operate and to change some of our infrastructure’.¹²⁴ This highlights a key element of this package of reforms, which is the potential to drive changes in the way in which local councils and others behave to reduce greenhouse gas emissions and move to cleaner energy sources.

Conclusion

4.153 The mechanism will not apply to many smaller local councils as they will not meet the required threshold for coverage, although they will, like other consumers, will experience some increases in input costs. Based on the Treasury modelling, these impacts are expected to be modest. Furthermore, councils will have opportunities to obtain potentially considerable benefits through the Carbon Farming Initiative and assistance through energy efficiency programs and the Low Carbon Communities Program.

4.154 The committee notes that there may be uncertainty among many local councils about the impact on them of the mechanism and related reforms, and the potential opportunities for them in terms of new sources of income through the Carbon Farming Initiative, new sources of investment for their communities, energy efficiency programs and the Low Carbon Communities Program. To some extent this is understandable, as local councils seek a clearer understanding of the direct impacts of the

122 Mr John Pritchard, DCCEE, *Committee Hansard*, Melbourne, 27 September 2011, p. 33.

123 Mr John Pritchard, DCCEE, *Committee Hansard*, Melbourne, 27 September 2011, p. 33.

124 Mr Rob Donaldson, Shoalhaven City Council, *Committee Hansard*, Sydney, 28 September 2011, p. 46.

mechanism on them, before considering ways in which these impacts, if any, may be mitigated.

- 4.155 Once the bills are passed, there is clearly a considerable amount of effort required on the part of the Government, working with the Australian Local Government Association, its State and Territory affiliates, and with State and Territory governments, to inform local councils about both the actual impacts of the mechanism and also the many opportunities that it presents for them, particularly the Carbon Farming Initiative, which will be implemented from 1 December 2011.

The mechanism and the agricultural sector

Background

- 4.156 Agricultural activities are excluded from coverage by the mechanism, although agricultural enterprises will be indirectly affected by it as consumers and suppliers.
- 4.157 Emissions from agricultural activities are excluded from the application of the mechanism under clause 30(4) of the Clean Energy Bill 2011. Agricultural emissions include:
- emissions of methane from the digestive tract of livestock;
 - emissions of methane or nitrous oxide from the decomposition of livestock urine or dung;
 - emissions of methane from rice fields or rice plants;
 - emissions of methane or nitrous oxide from the burning of savannas or grasslands;
 - an emission of methane or nitrous oxide from the burning of crop stubble and residues in fields and sugar cane before harvest; or
 - an emission of carbon dioxide or nitrous oxide from soil.
- 4.158 Relevantly, the mechanism also excludes emissions, other than emissions attributable to the operation of a landfill facility, from changes in the levels of carbon sequestered in living biomass, dead organic matter or soil and

that are attributable to land use, changes in land use (including land clearing) or forestry activities.¹²⁵

- 4.159 The bills also contain reforms that benefit land users. There is specific support for conservation tillage equipment through the Carbon Farming Futures program.¹²⁶ The offset is delivered by a 15 per cent refundable tax offset for eligible equipment. This will provide incentives for farmers to move to zero till and minimum tillage farming techniques which can enhance soil carbon, water retention and productivity. The Carbon Farming Futures program will provide \$429 million of funding over six years to help farmers and landholders benefit from carbon farming practices.
- 4.160 The committee also notes the upcoming commencement of the Carbon Farming Initiative (CFI) in December 2011. The CFI is an emissions offset scheme, whereby farmers and others may generate carbon credits. Each credit represents abatement of greenhouse gases which is achieved by:
- reducing or avoiding emissions, for example, through capture and destruction of methane emissions from landfill or livestock manure; or
 - removing carbon from the atmosphere and storing it in soil or trees, for example, by growing a forest or reducing tillage on a farm in a way that increases soil carbon.
- 4.161 Carbon credits are usually purchased and used by individuals or companies to cancel out or 'offset' the emissions they generate during their day-to-day life or normal course of business, for example, by consuming electricity or catching a plane. Carbon credits can be used to offset emissions voluntarily or to meet regulatory requirements.
- 4.162 The level of greenhouse gas abatement that could be achieved through the CFI is considerable on any estimate¹²⁷, given that the agriculture sector current represents around 20 per cent of Australia's total greenhouse gas emissions.¹²⁸

125 Clause 30(6) and (7) of the Clean Energy Bill 2011.

126 See Schedule 2, Clean Energy (Consequential Amendments) Bill 2011 and Clean Energy (Consequential Amendments) Bill 2011 – Explanatory Memorandum, Chapter 3.

127 A detailed discussion of the potential abatement opportunities presented by the CFI is set out in Chapter 1 of the Senate Standing Committee on the Environment and Communications – Legislation Committee report on the *Carbon Credits (Carbon Farming Initiative) Bill 2011 [Provisions]*, *Carbon Credits (Consequential Amendments) Bill 2011 [Provisions]* and the *Australian National Registry of Emissions Units Bill 2011 [Provisions]*, see pp. 16-20.

128 DCCEE *Australian National Greenhouse Accounts: National Inventory by Economic Sector 2009, 2010*, p. 1 <www.climatechange.gov.au/~//media/publications/greenhouse-acctg/national-inventory-by-economic-sector-2009.pdf> accessed 5 October 2011.

Analysis

4.163 The committee received evidence suggesting that the mechanism may give rise to additional costs and compliance obligations for farmers, which would also lead to increased exposure to trade competition which is not covered by a price on greenhouse gas emissions.¹²⁹ The WA Farmers Federation told the committee that:

From the evidence that has been given to us, we believe that financially we will be worse off under a carbon tax. Some of the detail, of course, is pretty limited in relation to proving that. I know the government's research does not indicate that, but we have been through these processes before. Farmers are very much at the end of the line and we believe a lot of the costs from processing, from retailing and from transport will gravitate back as increased costs and charges to growers.¹³⁰

4.164 Like small businesses, individual farmers will not be liable entities under the mechanism set out in the bills and will not have any direct compliance costs. There is a view that farmers will lose out financially, as they will bear the brunt of cost increases incurred by processors and others in the supply chain as a result of the mechanism, which are passed up the supply chain to them, rather than down the supply chain to consumers.¹³¹ While there are long-standing concerns about the way in which the food supply chain may operate to the disadvantage of farmers, which have been the subject of extensive parliamentary consideration, it is not clear to the committee that these issues translate, as a matter of course, to this context, without more evidence being provided.

4.165 The scale of potential direct cost increases to end consumers has been discussed above in the context of small and medium-sized businesses.¹³² The WA Farmers Federation noted work done by the Australian Farm Institute, which attempts to quantify these costs.¹³³ The Institute's work

129 Mr Dale Park and Mr Michael Norton, WA Farmers Federation, *Committee Hansard*, Sydney, 28 September 2011, p. 55.

130 Mr Michael Norton, WA Farmers Federation, *Committee Hansard*, Sydney, 28 September 2011, p. 54; see also Mr Dale Park, WA Farmers Federation, *Committee Hansard*, Sydney, 28 September 2011, p. 56.

131 Mr Michael Norton and Mr Dale Park, WA Farmers Federation, *Committee Hansard*, Sydney, 28 September 2011, pp. 54-55.

132 See 'The mechanism and small and medium-sized business' above.

133 See Sally Davidson 'Agriculture's excluded, so a carbon price won't add costs. Right?' in (2011) 8 *Farm Institute Insights* 3 (<http://www.farminstitute.org.au/newsletter/August_featurearticle.html> accessed 5 October 2011) and cited in National Farmers Federation, *Submission 63*, pp.4-5). It is unclear

shows that these additional costs are material, but does not account for the benefits available to farmers through the Conservation Tillage Offset, the CFI, tax reforms, household assistance and other programs which form part of the Package, and which have, in the case of the Conservation Tillage Offset, been designed to remove the potential for any benefit to be transferred to others in the supply chain.

- 4.166 Farming organisations are aware of the potential benefits to be realised from linked parts of this reform, including the CFI. The WA Farmers Federation noted that:

we certainly intend to work with NFF to look at ways and means as to how farmers in Western Australia can lock into some of those packages so that we can try and develop some way of ameliorating any potential costs that do flow back to us.¹³⁴

However, the WA Farmers Federation also noted that:

There has not been a terrible lot of research and development done in this area, so to really sit down and quantify numbers as far as agriculture is concerned is very difficult. We are very much of the opinion that agriculture can be part of the solution but there needs to be a terrible lot more research and development done to clearly identify what they are and what the value to agriculture is going to be.¹³⁵

- 4.167 While the CFI, taken alone, represents a significant opportunity for farmers to obtain benefits from farming practices which reduce or abate greenhouse gas emissions, there appears to be degree of confusion about the significant additional benefits that can be obtained from the linkage of the CFI with the mechanism.¹³⁶
- 4.168 Under the mechanism, Australian carbon credit units (ACCUs), which represent carbon credits generated through the CFI, can be used to meet liabilities under the mechanism.¹³⁷ As such, those generating carbon

where the figure of \$24,000 of additional costs for a WA grain farmer stated by Mr Norton comes from. The article states that the additional costs to a WA grain farmer in the first year of the mechanism would be \$2,951, and in the third year of the mechanism (assuming the inclusion of heavy vehicles) would be \$6,661 (see Tables 2 and 3).

134 Mr Michael Norton, WA Farmers Federation, *Committee Hansard*, Sydney, 28 September 2011, p. 59

135 Mr Michael Norton, WA Farmers Federation, *Committee Hansard*, Sydney, 28 September 2011, p. 58.

136 Mr Michael Norton and Mr Dale Park, WA Farmers Federation, *Committee Hansard*, Sydney, 28 September 2011, p. 59.

137 Clause 122 of the Clean Energy Bill 2011.

credits through the CFI, can sell them (as ACCUs) to liable entities under the mechanism. There are limits to the number of ACCUs to meet liabilities in the fixed charge phase of the mechanism¹³⁸, and surplus ACCUs may be applied to the next year's liability.¹³⁹ However, these restrictions will be removed from 1 July 2015, providing those generating ACCUs a potentially significant source of additional income from their sale to liable entities under the mechanism.

4.169 In this regard, the committee notes the comments of the National Farmers Federation in its submission to the Senate Standing Committee on Environment and Communications – Legislation Committee on the legislation to introduce the CFI:

it is important that the CFI is not excluded from linking with any future domestic carbon market, such as a carbon tax or emissions trading scheme.

The NFF notes that there is some opposition to the linking of CFI offsets to any future economy wide carbon pricing mechanism. The NFF argues that excluding CFI offsets from any future economy wide carbon pricing mechanism will increase the total cost of abatement for the Australian economy. This would also be the case if CFI offsets were excluded from a future economy wide carbon pricing mechanism during a fixed price phase as is being proposed under the Government's carbon pricing mechanism architecture.¹⁴⁰

4.170 The contribution of agriculture to Australia's greenhouse gas emissions reduction tasks is significant and important. However, it is only part of a much broader effort that will be required and there is the opportunity for the mechanism to encourage further research and development in this regard.¹⁴¹ Indeed, while there are clearly many opportunities available for effective action through the CFI and other programs¹⁴², the

138 A liable entity may meet only five per cent of its liabilities with ACCUs in the period 1 July 2012 to 1 July 2015; see clause 125(7) of the Clean Energy Bill 2011.

139 Clause 128(7)-(9) of the Clean Energy Bill 2011.

140 National Farmers Federation, *Senate Standing Committee on Environment and Communications – Legislation Committee Submission 39*, pp. 8-9. This issue is also discussed in more detail in Chapter 4 of the Senate Standing Committee on Environment and Communications – Legislation Committee report on the *Carbon Credits (Carbon Farming Initiative) Bill 2011 [Provisions]*, *Carbon Credits (Consequential Amendments) Bill 2011 [Provisions]* and the *Australian National Registry of Emissions Units Bill 2011 [Provisions]*, see pp. 56-60.

141 See Mr Michael Norton, WA Farmers Federation, *Committee Hansard*, Sydney, 28 September 2011, p. 59.

142 For a list of these initiatives see National Farmers Federation, *Submission 63*, p.5.

technologies are still being developed. For example, a considerable amount of work needs to be done in more fully understanding and developing the most effective methods of carbon sequestration in soil. The WA Farmers Federation advised the committee that:

We need a lot more research into soil carbon because it is going to be a viable alternative. It depends who you talk to – whether you talk to soil scientists or [agri]cultural scientists – but the whole fact that soil carbon can be quite transitive in the soil is one of the problems that we really need to get to. That is where we need to put a lot of research money into to firm up some of these mechanisms.¹⁴³

Conclusion

- 4.171 The mechanism will not apply to many agricultural enterprises as they will not meet the required threshold for coverage, although they will, like other consumers, will experience some increases in input costs. Based on the Treasury modelling, these impacts are expected to be modest. Furthermore, farmers will have opportunities to obtain potentially considerable benefits through the Carbon Farming Initiative, the Conservation Tillage Offset and assistance through energy efficiency programs.
- 4.172 The committee notes that there may be uncertainty among many farmers about the impact on them of the mechanism and related reforms, and the potential opportunities for them in terms of new sources of income. To some extent this is understandable, as farmers take up opportunities in the CFI from December 2011 and also seek a clearer understanding of the direct impacts of the mechanism and related reforms on them, before considering ways in which these impacts, if any, may be mitigated.
- 4.173 Once the bills are passed, there is clearly a considerable amount of effort required on the part of the Government, working with the National Farmers Federation, its State and Territory affiliates, and other agriculture sector organisations and with State and Territory governments, to inform farmers councils about both the actual impacts of the mechanism and also the many opportunities that it presents for them, particularly the Carbon Farming Initiative, which will be implemented from 1 December 2011.

143 Mr Dale Park, WA Farmers Federation, *Committee Hansard*, Sydney, 28 September 2011, p. 58.

Synthetic greenhouse gases

- 4.174 Synthetic greenhouse gases are far more potent in their atmospheric effects than carbon dioxide. For this reason, the bills provide for the application of an equivalent carbon price to the importation or manufacture of synthetic greenhouse gases in Australia.¹⁴⁴
- 4.175 The committee heard from a range of stakeholders concerning ways in which the regulation of synthetic greenhouse gases could be made more effective.¹⁴⁵
- 4.176 The Green Cooling Association informed the committee that:
- We very much support the price on carbon and associated emissions, but we are here particularly to talk about the synthetic greenhouse gases. These are gases used widely in the refrigeration and air conditioning industry and they are very potent emissions, so one kilogram might equal many tonnes, up to 10,000 tonnes or more, of carbon dioxide equivalent. Although they are at the moment a small slice of our emissions pie they are among the most rapidly growing of our emissions. The good news is that it is relatively easy to do something about it. They are a significant slice of our emissions, they are unnecessary, and the emissions we have today are in fact illegal.
- What we are about today is trying to close the loop and create a cash incentive, a financial incentive, to enable people to comply with their legal obligation to prevent emissions.¹⁴⁶
- 4.177 In particular, the Green Cooling Council argued that the introduction of carbon-equivalent pricing for refrigerant imports in July 2012 should be supported by complementary measures, including:
- bringing forward the planned introduction of financial incentives for the recovery and destruction of fluorocarbon gases,
 - removing the existing regulatory exemption for recovery of synthetic greenhouse gases from the destruction of foams,

144 See Part 2, Schedule 1 of the Clean Energy (Consequential Amendments) Bill 2011 and the Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011 and the Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011.

145 Green Cooling Association, *Submission 51 and supplementary submission*.

146 Mr Brent Hoare, Green Cooling Association, *Committee Hansard*, 28 September 2011, p.30.

- the establishment of a Product Stewardship scheme to manage the environmental impacts of fluorocarbon refrigerants and blowing agents, and
 - improved enforcement of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*.
- 4.178 The principal concern of the Green Cooling Association and others is that, while the introduction of a price on the emissions of synthetic greenhouse gases is a welcome and necessary step, there appear to remain considerable issues with ensuring full compliance with laws regulating the emission of existing synthetic greenhouse gases contained in older cooling equipment, particularly when this equipment is disposed of and the gas is simply released into the atmosphere rather than being collected and destroyed.
- 4.179 The committee strongly encourages Department of Sustainability, Environment, Water, Population and Communities to proactively and transparently assess the Green Cooling Association's recommendations such that they may, if appropriate, be given Parliamentary consideration.

Recommendation 3

- 4.180 **That the Department of Sustainability, Environment, Water, Population and Communities proactively and transparently assesses the Green Cooling Association's recommendations such that they may, if appropriate, be given Parliamentary consideration.**

The effectiveness of the household compensation arrangements

Background

- 4.181 The household compensation arrangements in the package have two principal elements:
- financial assistance through increased Government payments to families, veterans, allowees, pensioners, carers and self-funded retirees

for increases in the cost of living resulting from the implementation of the mechanism;¹⁴⁷

- assistance designed to encourage the adoption of energy saving measures;¹⁴⁸ and
- income tax cuts and new supplements for low and middle-income earners.¹⁴⁹

4.182 These arrangements are intended to shield low and middle income earners from the full impact of the price increases resulting from the implementation of the mechanism, and also allow recipients of assistance to use that money to purchase lower cost goods and services from less emissions intensive sources or to introduce their own energy saving measures in the home. In this way, the household assistance is also designed to encourage the adoption of lower-emissions technologies and energy sources by households and business.¹⁵⁰

Analysis

4.183 The committee received evidence from a range of community sector organisations which provide support and assistance to low-income Australians. While noting some specific issues, these organisations were generally supportive of the household compensation arrangements. By way of example, the Brotherhood of St Laurence told the committee:

In terms of the adequacy of the household assistance package, we think it is adequate to cover the additional costs for low-income households. The amount, which is going to over 120 per cent of the anticipated costs to these households, is particularly welcome. We do not see it as overcompensation, as it will cover those households with higher than average energy usage in this bracket. Also, it will cover both the direct energy costs, such as electricity and gas, and impacts on food and the like.

In terms of the mechanisms that have been chosen – the increase in pensions and benefits, changes to the low-income tax threshold,

147 See Clean Energy (Household Assistance Amendments) Bill 2011 – Explanatory Memorandum.

148 See Australian Government, *Securing a Clean Energy Future: the Australian Government's climate change plan*, 2011, Chapter 8.

149 See Clean Energy (Income Tax Rates Amendments) Bill 2011 and Clean Energy (Income Tax Laws Amendments) Bill 2011 – Explanatory Memorandum.

150 Australian Government, *Securing a Clean Energy Future: the Australian Government's climate change plan*, 2011, pages 37, 38 and 48 and Chapter 8.

including adjustments to ensure that it does not flow through to all wage and salary earners – we welcome those changes, as with the family tax benefit changes and, importantly, the additional support for households with medical special needs and disabilities. The safeguards that are put in place, such as \$300 to households that have not been appropriately compensated, the annual review of the adequacy of compensation and ACCC oversight of pricing are particularly important. Here we recognise that there is some lumpiness in terms of the amount that households get, but this reflects the choice of mechanisms chosen.¹⁵¹

- 4.184 The committee also heard that there will be some cost impacts on the provision of services by community sector organisations. However, these cost impacts need to be considered within a broader context. UnitingCare Australia, a major provider of social and other services, said:

That cost impact will hit our services at the same time that we are dealing with low-wage increases, which we absolutely support but are worried about how to afford. At the same time, we are looking at the diminution in value of the fringe benefits tax to our services. It is one of the ways we can attract and retain our workforce. We are looking at the superannuation guarantee. All of these things – the super guarantee and better wages for our low-wage staff – we think are very important. Pricing carbon will be a much smaller impact but we think a significant one. We have not quantified it.¹⁵²

- 4.185 Further detail on the other, more significant impacts on the community sector noted that:

The carbon price is a contributor to that and it is an issue we are working with the government on, but it is actually not the primary contributor. Our primary costs are around staffing, and the stuff around the low-wage case and FBT exemptions are actually more substantial concerns than the carbon price.¹⁵³

- 4.186 Some of these costs will be met through the provision of household assistance through increases to pensions and other government payments. The Council of the Ageing explained how this would work:

151 Mr Damian Sullivan, Brotherhood of St Laurence, *Committee Hansard*, Canberra, 26 September 2011, pp. 56-57.

152 Ms Lin Hatfield-Dodds, UnitingCare Australia, *Committee Hansard*, Canberra, 26 September 2011, p. 57.

153 Ms Susan Helyar, UnitingCare Australia, *Committee Hansard*, Canberra, 26 September 2011, p. 57.

They get their compensation through the individual getting the compensation, though. The individual who is in residential care gets their 1.7 per cent, or whatever it is, compensation and they then hand 50 per cent of it over to the residential care facility. That is basically how it is done. So it is still done through the individual and half of it goes to the aged-care provider and the other half stays with the individual, plus the percentage of their pension that they are going to pay goes up from 84 to 85 per cent. I am not an aged-care provider – COTA is a policy and advocacy organisation – but I used to run aged care. I am sure some of the aged-care providers feel that that is not actually adequate compensation, but I think time will tell whether that will be enough. We have got to work it through a bit.¹⁵⁴

- 4.187 While noting general support for the package, community service providers did note some concerns with the potential for compensation to be eaten up by increases in public housing rents by state and territory governments. To some extent this may be avoided by the payment of some benefits being paid as a supplement, rather than an increase in the pension or payment.¹⁵⁵ Similar concerns exist in relation to electricity cost increases over time, which may serve to impose additional costs on vulnerable and low-income families. UnitingCare told the committee that:

The brutal reality is that, in Australian communities and households that are characterised by poverty and exclusion, parents are making decisions all the time, particularly around whether or not they eat adequately so that their children can. Older Australians living in their own homes are making decisions about whether they heat them or not. So again I have to say around heating, around fuel, those increases are not being driven by pricing carbon. Those increases are being driven at over 10 to 15 per cent a year by other drivers. So, pricing carbon will have an impact, a minimal impact but an important impact that is compensated.¹⁵⁶

154 Ms Josephine Root, Council of the Ageing, *Committee Hansard*, Canberra, 26 September 2011, p. 59.

155 See Senator Louise Pratt and Ms Josephine Root, Council of the Ageing, *Committee Hansard*, Canberra, 26 September 2011, p. 62.

156 Ms Lin Hatfield-Dodds, UnitingCare Australia, *Committee Hansard*, Canberra, 26 September 2011, p. 61. See also UnitingCare Australia, *Submission 65*.

4.188 Community organisations also provided evidence to the committee on the tax changes, and the potential benefits that these can provide. With reference to the increase in the tax-free threshold, UnitingCare said:

we go up to \$18,000 and then we go up to \$19,400, from memory. They are good moves. Using ... the revenue raised from carbon pollution to make changes to our taxation system to make it fairer, to also enable Australians who are locked out of the labour market to more easily find and keep jobs – losing some of those taper rate issues – is smart policy and will positively impact people's lives on the ground, in the communities and the people are who we are delivering services to and supporting.¹⁵⁷

Conclusion

4.189 The committee is aware of the concern among many Australians that the mechanism will have a direct financial impact on them. The Treasury modelling indicates that, despite claims to the contrary, this impact is likely to be modest.

4.190 The committee also notes that the mechanism, by pricing greenhouse gas emissions, is intended to drive change in the behaviour of businesses and consumers to foster over time:

- supply-side changes to implement cleaner, more energy efficient production methods for energy, primary production and manufacturing; and
- demand-driven change, through a price signal to consumers about the comparative emissions intensity of goods and services in the economy.

4.191 The household assistance measures in the bills are designed to ensure that many households, particularly low and middle-income households, are not left financially worse off as a result of applying a price to greenhouse gas emissions.

4.192 The committee is satisfied that the full suite of household assistance measures will provide compensation for those Australian households that will most directly experience the impacts of pricing greenhouse gas emissions, and provide them with the ability to drive further change. The committee is also satisfied that the measures announced by the Government provide for appropriate support over time to assist

¹⁵⁷ Ms Lin Hatfield-Dodds, UnitingCare Australia, *Committee Hansard*, Canberra, 26 September 2011, p. 63.

community sector service providers in adjusting, and in better assisting vulnerable and low-income Australians.

Steel Transformation Plan

Background

- 4.193 The Steel Transformation Plan is additional assistance to Australian steel manufacturers. It is likely that those Australian steel manufacturers that can seek assistance under the Plan will be liable entities under the mechanism and, as emissions-intensive trade-exposed businesses, may be eligible for free carbon units under the jobs and competitiveness program.¹⁵⁸
- 4.194 Under the Plan, the Government may provide financial assistance to Australian steel manufacturers to undertake activities that will significantly enhance the competitiveness and economic sustainability of the steel manufacturing industry in Australia in a low carbon economy.¹⁵⁹ The total amount of assistance is capped at \$300 million for the four years from 2012-2013.¹⁶⁰

Analysis

- 4.195 The Plan is intended to assist steel manufacturers in adjusting to the mechanism in the context of a challenging international trade environment at present. Part of this adjustment will involve steel manufacturers adapting to a low carbon economy, and working to reduce their liabilities under the mechanism.
- 4.196 DCCEE noted that '[t]he steel transformation plan is about providing assistance to the sector in order to help it transform into a sector which is going to be viable in the long term in Australia. It reflects the particular circumstances that the Australian steel makers are facing at the moment.'¹⁶¹
- 4.197 DIISR further noted environmental issues could be included as part of the consideration of applications under the Plan, specifically that '[i]n relation

158 Ms Jenny Wilkinson, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 22.

159 Clause 5 of the Steel Transformation Plan Bill 2011.

160 Steel Transformation Plan Bill 2011 – Explanatory Memorandum, p. 1.

161 Ms Jenny Wilkinson, DCCEE, *Committee Hansard*, Canberra, 21 September 2011, p. 22.

to environmental outcomes under the bill the second part of the scheme will be a self-assessment scheme similar to the automotive transformation scheme. The details of environmental outcomes will be set out in the disallowable instrument which will be formulated in the second part of this year.¹⁶²

Conclusion

4.198 The committee considers that the Steel Transformation Plan Bill 2011 adequately provides for the consideration of environmental factors in the provision of assistance to Australian steel makers.

Issues for further consideration

4.199 The committee has received a considerable amount of detailed evidence about specific aspects of the bills. As noted elsewhere in this chapter, the committee draws these specific issues to the Government's attention.

4.200 A theme that emerged during the committee's inquiry degree of uncertainty about the mechanism and its application. In particular, there are areas which would benefit from clear information and guidance being provided to those directly affected by the mechanism and related reforms, including:

- liability under the mechanism and compliance with the Clean Energy legislation;
- the linkages between the mechanism and related initiatives like the Carbon Farming Initiative; and
- opportunities for government support for and investment in clean energy and energy efficiency initiatives.

Recommendation 4

4.201 **That the Government intensify its efforts to promote awareness and understanding of the mechanism, including through:**

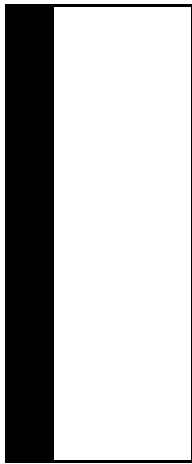
- **working with the Clean Energy Regulator to provide information and guidance to liable entities about the**

162 Ms Lindy Edwards, DIISR, *Committee Hansard*, Canberra, 21 September 2011, p. 22.

mechanism and compliance with it in good time for the start of the mechanism on 1 July 2012;

- **working with representative bodies, state, territory and local governments, to inform state, territory and local governments, businesses, community organisations and individuals about:**
 - ⇒ **the linkages between the mechanism and related initiatives like the Carbon Farming Initiative; and**
 - ⇒ **opportunities for government support for and investment in clean energy and energy efficiency initiatives.**

Ms Anna Burke MP
Chair
5 October 2011



Supplementary comments from the Australian Greens

Regarding recommendation 1

The Steel Transformation Plan Bill 2011 gives effect to a 'Government only' commitment arising from the Multi Party Climate Change Committee negotiations. The clean energy package makes provision to compensate energy intensive trade exposed industries for their trade exposure and steel is included in these provisions. The additional assistance provided by the Steel Transformation Plan Bill 2011 is industry assistance responding to higher input costs and the relatively high Australian dollar. The Australian Greens are evaluating the merits of the bill and have not yet finalised a position.

Senator Christine Milne

Mr Adam Bandt, MP

Deputy Chair



Report of Coalition Members and Senators

Senator Simon Birmingham

Mr George Christensen MP

Senator Mathias Cormann

Mrs Joanna Gash MP

Hon Tony Smith MP

1. Introduction

Labor have denied Australians a proper voice throughout the carbon tax debate. They were denied a say on the issue at last year's election, thanks to the Prime Minister's misleading of the Australian people, they have refused to take the matter back to the people and Labor are attempting to rush this legislation through the parliament without any of the proper scrutiny usually provided to such a sweeping legislative reform.

The Coalition is determined to let the Australian public have their say on Labor's carbon tax. Most importantly, we will give Australians a choice at the next election.

Through this inquiry, despite its undue haste and stifling by the Labor-Greens-Independent majority, we have sought to give as much voice to all Australians as is possible.

In this report of Coalition Members and Senators we have included the comments of hundreds of Australians – not just those few who appeared before the committee in its select few days of hearings in south-eastern Australia, or those professional organisations who made detailed submissions, but also many comments from the more than 4,500 people who made submissions to this inquiry, which the Labor-Greens-Independent majority refused to have published.

To the thousands of people who feel like Noel Bowman, who stated in his submission that 'I suppose no one will ever read this submission and in consequence I am wasting my time'¹, the Coalition members say we have tried to give you a voice. We could not quote or reference everybody, but in contrast to Labor's determination to shut people out of this process we were even more determined to ensure that as many voices as possible from across Australia were heard.

The carbon tax legislation is bad legislation. It fails the core test of being the most effective and efficient way of reducing Australia's emissions into the future, without causing harm to our economy:

The legislative package is not the most effective and efficient means of reducing Australia's emissions. It has inherent inefficiencies and will lead to unintended consequences. The carbon pricing mechanism runs counter to the international

¹ Mr Noel Bowman for the extended Bowman Family, unaccepted submission, received 18 September 2011, 2.37PM.

evidence in favour of incentive schemes and against penalty schemes. We continue to hear commentary about permits and abatement credits. Permits are emissions rights and abatement credits are certified reductions in emissions. They are two very different beasts and are reflective of two very different types of market structures. The proposed scheme will penalise Australian manufacturers whilst paying incentives to their international competitors. Electricity prices could rise more than 6c per kilowatt hour relative to current prices without changing the carbon intensity of the generation mix.²

It subjects Australia's economy, industry, businesses, service providers, charities, families and households to an experiment:

Australian businesses do not operate in the confines of a model; they operate in the real world. They are not in the economic laboratory.³

It is based on false claims about Australia's contribution to what is truly a global issue that must be tackled in a coordinated global way:

We are a small producer of greenhouse gases and our actions alone will be quite negligible in reducing emissions generally. In terms of our income levels, Australia as a consumer of greenhouse gases is about average. We are relatively high as a producer of these gases, largely because we export aluminium and other metals, whereas other developed countries of our standard of living import them.⁴

It outsources our responsibilities to the rest of the world, at great cost to jobs, competitiveness and our cost of living:

The issue that is a concern for my board and for our businesses is whether this tax will actually assist in reducing carbon emissions and whether this tax will actually achieve what it is trying to achieve. That is really the questioning that I receive quite regularly from board members and from businesses in general. I do not believe anyone would dispute that the climate changes. That is not

² Mr Stuart Allinson, Director, Exigency Management Pty Ltd, Committee Hansard, 27 September 2011, p. 13.

³ Mr Greg Evans, Australian Chamber of Commerce and Industry, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 36.

⁴ Dr Alan Moran, Director Deregulation Unit, Institute of Public Affairs, Committee Hansard, 27 September 2011, p. 57.

the debate. The debate is about whether this tax is going to achieve a reduction in carbon emissions.⁵

In this report of the Coalition members who participated in the inquiry into the carbon tax legislation we consider each of the following issues:

- the breach of trust from the Gillard Labor Government and the complicity of the trade union movement in that broken promise;
- the extent to which this policy is putting Australia out of step with the rest of the world and the false assumptions on which it has been modelled;
- the ineffectiveness of this policy in reducing emissions and the impact of Australia outsourcing action through the use of international permits;
- the pain the policy will cause to households through increased cost of living pressures;
- the impact on small businesses of rising input costs and their ability to recoup those costs;
- different communities that will feel particular pressure, with a focus on local government, regional Australia and the community welfare sector;
- some of the key industries that will be compromised by the carbon tax, especially those that are trade exposed;
- the crippling impact it will have on Australia's international economic competitiveness;
- that far more than the claimed 500 companies will pay the carbon tax; and
- the farcical way in which this inquiry was conducted.

For all of these reasons and numerous others that are touched on in the report, the Coalition Members and Senators participating in the inquiry into Labor's carbon tax bills make the following recommendation:

Recommendation

That these Bills not be passed and that Australia pursue a less harmful, more effective means to meet our emissions reductions targets.

⁵ Ms Mary Carroll, Capricorn Enterprise, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 39.

We further suggest that calls for a true analysis of the impact of Labor's policy and other policy alternatives be accepted:

We suggest that the committee commission systematic and transparent modelling of alternative policy scenarios by the Productivity Commission and that this modelling should address such questions as these. What are the costs to Australia of a unilateral carbon pricing scheme operating with patchy and uncoordinated international abatement action until 2020 rather than credible and comprehensive action on a global scale? What is the risk of a unilateral tax on Australian resource exports encouraging our coal and other resource competitors to stay out of any global agreement? What are the risks on taxpayers of implementing the proposed scheme before the global outlook is clear?

Is the proposed scheme the most efficient way of meeting Australia's Copenhagen Accord pledge given the structure of Australia's economy and the nature of the export profile? Is imposing a unilateral tax on our main source of comparative advantage the most efficient way of meeting the environmental goal of the clean energy future legislation? What would be the implications of alternate carbon price trajectories? What would be the implications if a large proportion of international abatement were not available or if international abatement proved to be more costly than expected? We think it would be useful if the committee referred those matters for study by the Productivity Commission.⁶

⁶ Mr John Harry Pegler, Chairman, Australian Coal Association, Committee Hansard, 27 September 2011, pp. 64-65.

2. Breach of trust

Labor's Broken Promise

A strong and recurrent theme in submissions from the public was the fundamental breach of trust that this carbon tax embodies between Labor and the Australian people. During the 2011 election the Prime Minister was absolutely clear in her promises opposing a carbon tax. The Prime Minister stated:

*'There will be no carbon tax under a Government I lead.'*⁷

*'I rule out a carbon tax'*⁸

The Treasurer, Wayne Swan, was equally clear in his promise to the Australian people that Labor would not introduce a carbon tax stating:

*'We have made our position very clear. We have ruled it out.'*⁹

*'Well, certainly what we rejected is this hysterical allegation somehow that we are moving towards a carbon tax... we certainly reject that.'*¹⁰

The Prime Minister and Treasurer were so clear in their public opposition to a carbon tax in the days before the election because they know how deeply unpopular a carbon tax is and that being honest with the Australian people would have cost them seats and Government.

What makes this betrayal of trust even more galling is the Prime Minister's previous statements on the importance of honouring election promises.

*"I think when you go to an election and you give a promise to the Australian people, you should do everything in your power to honour that promise. We are determined to do that. We gave our word to the Australian people in the election and this is a Government that prides itself on delivering election promises. We want Australians to be able to say well, they've said this and they did this."*¹¹

".. if the reputation of this Government is that we are stubborn in the delivery of our election promises , then we are stubborn in keeping our

⁷ Channel Ten News, 16 August 2010.

⁸ PM's carbon price promise, The Australian, 20 August 2010.

⁹ 7:30 Report, ABC, 12 August 2010.

¹⁰ Meet the Press, Channel Ten, 15 August 2010.

¹¹ Interview with Jon Faine, 20 March 2009.

*word to the Australian people. Then I'll take that. I'll take that as a badge of honour."*¹²

*"We're always there delivering our election promises. That's important to us. And we're always there acting in the national interest."*¹³

*"... we will deliver in full the election promise we took to the Australian people."*¹⁴

Unsurprisingly the Australian people feel betrayed by the Prime Minister and Treasurer and this was clear in submissions received by the Committee. These strong views included:

Julia Gillard stated there would be NO CARBON TAX under her Government. How can she and Bob Brown ever be trusted again.¹⁵

... Gillard promised the Australian people that there will be no carbon tax under the government I lead. History now proves this was a blatant lie by Gillard. Federal Labor is treating the Australian people like a joke; they treat us like where unintelligent fools and we have had enough.¹⁶

We were promised "No carbon tax" and now are being forced to accept one.

This is a tax that is being introduced against the wishes of the people of Australia. It is a tax that will hurt all Australians.¹⁷

Before the election a key promise from Ms Gillard was that there would be no carbon tax ... I am ashamed to be an Australian right now, I am embarrassed that our system has let the people down, and that elected officials are intentionally going against the will of the people.¹⁸

... the imposition of this tax is a clear breach of an election promise by a government that did not even win sufficient seats to govern in its own right.¹⁹

¹² Interview with Jon Faine, 20 March 2009.

¹³ *Lateline*, ABC, 16 June 2009.

¹⁴ Press Conference, 20 March 2009.

¹⁵ Mr and Mrs John and Barbara Rodham, unaccepted submission, received 20 September 2011, 7.42AM.

¹⁶ Mr Bradley Ezzy, unaccepted submission, received 18 September 2011, 2.10PM.

¹⁷ Mr Frank McKee, unaccepted submission, received 17 September 2011, 12.45PM.

¹⁸ Mr Brad Kelly, unaccepted submission, received 17 September 2011, 12.12PM.

¹⁹ Ms Jenny Dolzadelli, unaccepted submission, received 20 September 2011, 7.45PM.

I am totally against the carbon tax and especially the deceitful way it has been introduced. Julia Gillard promised at the last election that it wouldn't happen.²⁰

We were promised a people's/community discussion, we were promised NO tax...²¹

It really infuriates me that it is being introduced through parliament ... even though Labor policy prior to the election was totally different and Prime Minister GILLARD explicitly stated a week prior to the election that there would not be a Carbon Tax until a consensus was gained through a Citizens Assembly (at the very least).

It is this dishonesty more than anything than anything that makes me so annoyed that it is being introduced. ... I believe that had she not promised that there would not be a carbon tax in the election campaign she would not have gained a majority.²²

It is noteworthy that a number of these submissions and others recalled another of the Prime Minister's election commitments, namely to seek a 'consensus' on how best to tackle climate change through the proposed 'Citizens Assembly'. This commitment was also abandoned shortly after the 2010 election.

Many Australians feel that Labor's duplicitous behaviour before the election means they have no mandate to introduce this tax and demands an election be held before this legislation is voted on:

I consider that the Gillard Government has NO MANDATE to introduce this tax after specifically and unambiguously going to an election with a clear commitment NOT to introduce a carbon tax.²³

Julia Gillard and her government promised that they would not bring one in and it is that 'Promise' to the Australian people that got them back into power. The 'Promise' that, for some reason, means absolutely nothing to them now. We should have a choice in this...why is she & her government not allowing us our right to vote on something that is going to have such a major impact on every single Australian's life?²⁴

²⁰ Ms Annette Donohue, unaccepted submission, received 18 September 2011, 2.11PM.

²¹ Mr Paul Howell, unaccepted submission, received 18 September 2011, 2.01PM.

²² Mr Liam O'Connor, unaccepted submission, received 18 September 2011, 2.00PM.

²³ Ms Christine Davitt, unaccepted submission, received 17 September 2011, 12.16PM.

²⁴ Ms Shirley Dawson, unaccepted submission, received 17 September 2011, 12.06PM.

The political impact this great big lie has already had on our system is sad. We've got a government doing all it can to avoid scrutiny and silence not only the opposition but the Australian people.²⁵

The Prime Minister clearly stated just before the last election that "There will be no carbon tax under a government I lead". The Treasurer made similar declarations. Therefore the current government HAS a mandate NOT to introduce a carbon tax.²⁶

Julia Gillard clearly stated during her election campaign that the Labor Party would not introduce a carbon price/tax. I hold her to that statement and demand that she withdraws the proposed legislation immediately.²⁷

The minority Labour Government currently in power within this country was at no time given a mandate by the Australian voting public to introduce this tax and the current Prime Minister is on record as stating that a carbon tax will not be introduced. This is in direct contradiction with stated policies and denies the Australian Public the opportunity to decide.²⁸

Prior to the election the now Prime Minister, Julia Gillard declared categorically "There will be no carbon tax under any Government I lead". She was elected by the Australian people (just,... with the help of the Greens) in good faith accordingly and therefore the Govt does not have a mandate to now break that promise AND introduce one.²⁹

The introduction of this betrays ... commitments given by Labor in the last federal election that there would be no 'Carbon Tax' and that legislation governing carbon dioxide emissions would only be determined when community consensus was reached.³⁰

The Government was elected on a no Carbon Tax platform. This is a democracy and the people voted based on a position the Prime Minister is now ignoring.³¹

²⁵ Mr Scott O'Connell, unaccepted submission, received 17 September 2011, 12.50AM.

²⁶ Ms Michelle Burrows, unaccepted submission, received 20 September 2011, 6.25PM.

²⁷ Mr Olav Banneck, unaccepted submission, received 19 September 2011, 11.29PM.

²⁸ Mr Ronald Atwell, unaccepted submission, received 18 September 2011, 8.58PM.

²⁹ Mr Chris Thomas, unaccepted submission, received 18 September 2011, 2.13PM.

³⁰ Mr Brian Fergusson, unaccepted submission, received 18 September 2011, 2.05PM.

³¹ Mr Vincent Tesoriero, unaccepted submission, received 17 September 2011, 2.48PM.

It is against the spirit of Australian democracy. I say this because the Government has no mandate from the people to introduce such a tax. Its introduction was not part of the Australian Labor Party's platform at the 2010 election. I believe an Act with such widespread consequences and conferring such powers should not be enacted without the prior endorsement of the Australian voters.³²

Many Australians outlined how they were personally conned by the Prime Minister's words before the election and feel angry at the contempt with which the Prime Minister holds their trust in her. Having given her party their vote they feel betrayed that she is doing the opposite of what she promised before they did so.

... my wife and I ... voted Labor at the last election on the platform that there would be no carbon tax. Gillard and Labor have deceived us and the Australian people and it's not right. We have lost total confidence in the current government to run this country as a democracy.³³

The Prime Minister Ms Gillard did say "That there would be no carbon tax under the Government that I (she) lead(s)." It was on this presumption that Ms Gillard was telling the truth at the time, that I voted for her Government. As a T.P.I. on a pension I know I couldn't afford to be burdened with another Tax which would reduce my living standards any further.³⁴

The Labor Party got into power on false promises - No carbon tax. I voted for the Labor Party for that reason and I am angered at being lied to and not being able to rescind my vote. My frustration deepens as there isn't a framework to protect us or prevent the deceit (if a business was this deceitful we could hold it to account).³⁵

It is clear that there is widespread anger in the community with this tax which is compounded by the Prime Minister's solemn promise that there would be no carbon tax and her willingness to abandon her commitment to the Australian people for political expediency.

³² Mr Brian Pratt, unaccepted submission, received 18 September 2011, 1.51PM.

³³ Mr Alan Herbert, unaccepted submission, received 18 September 2011, 1.49PM.

³⁴ Mr Kenneth Taylor, unaccepted submission, received 18 September 2011, 1.46PM.

³⁵ Mr Harold Bull, unaccepted submission, received 17 September 2011, 1.35PM.

Australians understandably feel betrayed by a Prime Minister who preaches honesty in politics and the importance of keeping promises, but has proven her words are of no consequence and integrity non-existent.

Unions complicit

While the Prime Minister has betrayed the Australian people, Labor's friends in the union movement are equally culpable in betraying Australian workers. Unions claim to represent the views and interests of their members, yet in testimony given to the Committee, the Unions would have you believe they do not know what their members think about the carbon tax and that Union leaders are so disconnected from their members that complaints are never heard at the top:

Mrs Gash: I come from the Illawarra. Can you tell me how many complaints you have had from your members at BlueScope? Tell me how many complaints.

Mr McCauley: About?

Mrs GASH: On what issue? What issue are we talking about? A carbon tax.

...

Mr McCauley: I am not from the New South Wales branch. I do not know who from the Illawarra has talked to the New South Wales branch about the carbon tax. I do not have that information before me.

Mrs GASH: You do not speak to the rest of the branches in Australia?

Mr McCauley: Of course I do. Members from the Illawarra have not complained to me and that is the only information I can provide to you today.

CHAIR: From the ACTU perspective and overall, have you done any sort of quantified research about membership concerns?

Mr McCauley: Well, our members are trade unions.

CHAIR: Yes, but through the union movement, have issues of concern been raised?

Mr McCauley: Not so they have filtered up to me, no.³⁶

³⁶ Mrs Joanna Gash, Member for Gilmore; Ms Anna Burke, Member for Chisholm; Mr Timothy McCauley, National Project Officer, Australian Manufacturing Workers Union, Committee Hansard, 27 September 2011, p. 26.

Indeed, the people who appeared before this inquiry claiming to speak for Union members cannot recall the last time they even visited a union work site:

Mr McCauley: We also have a helpdesk where we have people calling in and we log those calls. We also have correspondence coming in to various branches of the union.

Mr TONY SMITH: How does that filter up to you?

Mr McCauley: It does not necessarily filter up to me. I am from the national office. But each branch –

Mr TONY SMITH: I know we are short of time. One last question. You mention that you are out there talking to members all the time. Could you just, for the benefit of the committee, each tell us the last time you were at a manufacturing plant.

Mr McCauley: Personally?

Mr TONY SMITH: Yes.

Mr McCauley: I am a lawyer; I am not an organiser. We are an organising union. I am not the organiser for the union.

Mr TONY SMITH: Okay. And you, Mr Fetter?

Mr Fetter: I am in the same position.

Mr TONY SMITH: Thanks. That is okay. We are short on time.³⁷

These Union officials do however readily acknowledge – but don't seem to be at all concerned by the fact – that the carbon tax will see their members with lower pay in the future, increase their cost of living and leave them financially worse off:

Senator BIRMINGHAM: Do you accept that the Treasury modelling is accurate when it predicts that national income, real income per person, will be below that expected without carbon pricing?

Mr Fetter: Yes. The whole point of the scheme is to reduce our emissions, thereby reducing the GDP and the incomes from all the factors of production that would otherwise have taken place.

Senator BIRMINGHAM: The whole point of the scheme is to reduce national GDP?

³⁷ Hon Tony Smith MP, Member for Casey; Mr Timothy McCauley, National Project Officer, Australian Manufacturing Workers Union; Mr Joel Fetter, Director Policy and Legal, Australian Council of Trade Unions, Committee Hansard, 27 September 2011, p. 31.

Mr Fetter: We are clearly going to have to use more expensive sources of energy to achieve the same production. But the modelling is –

Senator BIRMINGHAM: So the union movement is comfortable with lower income per person in the future?

Mr Fetter: We will clearly have a lower income than the income we could generate if we continued to burn dirty coal and we continued with business as usual. But we would also have very high emissions. At some point in time, the planet will catch up with us and then you would see what happens to GDP.

Senator BIRMINGHAM: When is that point in time?

Mr Fetter: Scientists tell us that by 2100 we may be facing two degrees of warming. The impact on GDP we saw with the floods in Queensland was very significant and that is in 2011. So by 2100 one would expect significant impacts on GDP if nothing is done about climate change.

Senator BIRMINGHAM: So you acknowledge the Treasury modelling only goes out as far as 2050. At that point, real income is still trending down compared with a no carbon price scenario.

Mr Fetter: Yes, but we would have a higher GDP if we allowed child labour. There are many things that we could do to increase our GDP, but we do not do them because they are not good ideas.

Senator BIRMINGHAM: This is also talking about the real wages of your members.

Mr Fetter: You are comparing this with a hypothetical scenario: what would the world look like down the track if we did not have action on climate change?

Senator BIRMINGHAM: I am talking about the modelling that the government that you so enthusiastically support relies upon.³⁸

Sadly Union bosses seem more concerned with the jobs of Labor Parliamentarians, and quite likely their own future preselections, than the jobs and wages of their members. Like the Government has forgotten that they are the representatives of the people, Union bosses have forgotten they are supposed to be the representatives of their members.

³⁸ Senator Simon Birmingham; Mr Joel Fetter, Director Policy and Legal, Australian Council of Trade Unions, Committee Hansard, 27 September 2011, p. 29.

This abrogation of duty is highlighted by Union bosses who can't remember the last time they were on a work site and claim that the views of Union members do not 'filter up' to them yet still, miraculously, manage to give evidence that the majority of union members support the carbon tax:

Mr CHRISTENSEN: The relevance is the testimony that has been given to us today, apparently on behalf of the union members. I refer you to two constituents in my electorate. Wayne Bouskill says, 'I am an AMWU unionist. I would like to say the carbon tax is a load of rubbish. It has no significance to this country whatsoever and it is going to cost jobs.' I have another one here from Phil Mifsud, an AWU delegate at Dalrymple Bay Coal Terminal, who says, 'I am not happy with the carbon tax. I don't think it is a right step in the right direction for the country, and I will not be backing it one bit.'

Mr CHRISTENSEN: Can you tell us unequivocally today that the majority of your union members support the government's legislation – yes or no?

Mr Fetter: Yes.

Mr CHRISTENSEN: Yes? You say the majority would?

Mr Fetter: From where I sit, my members are the 50 or so trade unions in this country³⁹

ACTU members are of course Unions, not their workers. However, the failure of the ACTU to even consider itself as a representative of workers is a distinction which says much for the culture of self interest, greed and contempt for workers which has been on full public display from sections of the Union movement of late.

This contempt for workers is all too evident in the response from Unions when they actually bother to ask their members what they think:

Mr CHRISTENSEN: You had a poll on your website back in April: 'Would you support a carbon tax on big polluters that was used to compensate households for increased costs?' What was the result of that poll?

Mr Maher: I am not sure. There are about 200 and I took steps to close it down.

Mr CHRISTENSEN: It was 78 per cent against.

³⁹ Mr George Christensen MP, Member for Dawson; Mr Joel Fetter, Director Policy and Legal, Australian Council of Trade Unions, Committee Hansard, 27 September 2011, p. 31.

Mr Maher: That was on the construction division website and it was a thought-bubble by a junior officer...⁴⁰

If the Unions don't like the response they shut it down. Blame someone else for asking the questions and ignore the answer. The parallels with the Labor party's modus operandi are compelling.

If this shot gun inquiry achieved one thing, it was demonstrating to union members across the country the contempt their Unions have for them and their willingness to sell out the interests of workers for perceived political advantage. The irony is of course that if the Unions actually wanted to help protect Labor Parliamentarians' seats they would pull the pin on their support for the carbon tax at the first opportunity and force the government back to the drawing board.

⁴⁰ Mr Tony Maher, CFMEU, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 6.

3. Out of step with the world

The Prime Minister and her government have frequently warned that, without this legislation, Australia is at risk of 'being left behind'⁴¹ the rest of the world in terms of action on climate change. However, the reality is the opposite.

Coalition members believe there are two key issues to be examined in determining whether Australia is keeping in step with the world, getting ahead of others or is a laggard, namely:

- the extent to which countries have committed and are acting in a coordinated way to reduce or constrain their current and future emissions levels; and
- the policies being adopted by other countries to reduce or constrain their current and future emissions levels.

Many witnesses have argued, including the Australian Coal Association, that global commitments to reduce or constrain current and future emissions levels are inadequate and out of step with the reforms being proposed by this carbon tax legislation:

... would contend that Australia's effort to put a price on carbon and reduce emissions makes sense only if there is substantial progress towards global action by both our trade partners and trade competitors. Manifestly, that is not the case. In fact, at the moment global action is patchy and inconsistent.⁴²

The extent of such global commitment is explored further in this section, as is the absence of comparable policies in other countries, which was identified earlier this year by the Productivity Commission:

... no country currently imposes an economy-wide tax on greenhouse gas emissions or has in place an economy-wide ETS.⁴³

The impact of such a policy, where Australia acts ahead of other countries, especially our trading competitors, is not limited to an economic impact in

⁴¹ Hon Julia Gillard MP, Interview with Mr Alan Jones, 25 February 2011.

[<http://www.pm.gov.au/press-office/transcript-interview-alan-jones-2gb>]

⁴² Mr John Harry Pegler, Chairman, Australian Coal Association, Committee Hansard, 27 September 2011, p. 64.

⁴³ Productivity Commission, *Carbon Emission Policies in Key Economies*, 2011, p. 50.

Australia, but also has the perverse potential to lead to an increase in global emissions, as argued by Labor's own climate change adviser, Professor Garnaut.

... imposing a carbon price in Australia ahead of similar carbon constraints in our trade competitors ... could result in some movement of emissions-intensive, trade-exposed industries from Australia to other countries that impose less of a carbon constraint. This could result in an increase in global emissions – in the event that the activity moves to a country that uses a more emissions-intensive production process than Australia.⁴⁴

Australia is no laggard

Before addressing the extent of action in other parts of the world it is important to establish that already, with a carbon tax, Australia has demonstrated a capacity to deliver on our promises to limit emissions and is no laggard when it comes to action on climate change. As a nation we have a proud record of making responsible commitments for climate change action and of meeting them. We should celebrate this, not be cowed into believing, as Labor or the Greens would have it, that we are an irresponsible global citizen.

We are around the world's 16th largest emitter, accounting for around 1.3 per cent of global emissions, comparable to our place as the 13th largest economy in the world.

We made a commitment under the Kyoto Protocol to limit our emissions to 108 per cent of 1990 levels. Despite the unfortunate political debate that ensued in Australia about ratifying the Kyoto Protocol, we should hold our heads high that, according to the Department of Climate Change, we will come in well under target, with an increase in emissions against the benchmark of somewhere between three and six per cent.

Contrast that to other comparable developed nations and you see Australia should feel pleased with our efforts:

- Canada promised a six per cent reduction but is likely to deliver a 27 per cent increase;
- Japan also promised a six per cent reduction but is likely to deliver an eight per cent increase;
- New Zealand promised to hold to the baseline but faces a 26 per cent increase; and

⁴⁴ Professor Ross Garnaut, *The Garnaut Review 2011*, p. 83.

- The European Union looks set to fall six per cent or so short of their promised eight per cent reduction.

Similar evidence was presented to the committee by the Minerals Council of Australia:

The government talks about the commitment made by 89 countries in Cancun and Copenhagen. There are varying analyses of that and there are some who say it falls well short of that target and there are differences in the scale of how far it falls short. Our proposition is that, when we are designing an emissions trading scheme, we should examine two things: what countries are saying and what countries are doing. Australia, since 1990, in terms of its emissions intensity per dollar of GDP, has improved its emissions-intensive carbon productivity by 44 per cent. For the European Union the comparable figure is 31. The comparable figure for the United States is 25. Australia's emissions since 1990 have gone up by between three and six per cent, depending on which government emissions data you look at. Other countries have gone up varyingly, the US by 17 per cent, Canada by 26, New Zealand by 23 and Japan by 13. We have outperformed both developed and developing countries – developing countries by a long way – since 1990. Australia is not a lagger.⁴⁵

Australia has delivered. We have done so without a carbon tax or emissions trading scheme, but instead by becoming more efficient. Australia's emissions intensity – that is, our levels of emissions compared against our level of real Gross Domestic Product – has seen a dramatic 44 per cent decline since 1990. Businesses have sought greater efficiency based on commercial grounds, as the commercial incentive to minimise costly inputs like electricity and transport fuels are already strong.

To what extent is the world acting?

Optimism that the majority of the world, particularly the majority of major emitters, has a clear commitment to reduce or constrain their emissions in a measurable, reportable and verifiable way that would achieve stabilisation of global concentrations of greenhouse gases at an acceptable level dropped dramatically following the farcical end to the Copenhagen conference in December 2009. The Copenhagen Accord simply provided a means for countries to commit

⁴⁵ Mr Brendan Pearson, Deputy Chief Executive, Minerals Council of Australia, Committee Hansard, 27 September 2011, p. 76.

to non-binding, voluntary emissions targets, which the inquiry heard has little, if any, verification standards.

Senator BIRMINGHAM: In the absence of a second commitment period or, for those who would prefer it, a new legally binding framework, what framework is there to ensure that global commitments are measured, verified and reported upon?

Mr Young: Some of those were regarded as the holes in the Copenhagen accord, and that was that they were pledges. I am not up to date with the latest on it but certainly China resisted external verification of their reporting.⁴⁶

The first commitment period of the Kyoto Protocol expires next year, in 2012. The failure at both the 2009 Copenhagen Conference and 2010 Cancun Conference for parties to agree on a new global mechanism of substance seems likely to be repeated at the Durban Conference later this year.

The inquiry into these bills heard that even the option of extending the Kyoto Protocol into a second commitment period was 'all very unclear'.⁴⁷

This pessimism is borne out in global analysis, with a World Bank Carbon Finance Unit survey of participants in the global carbon market indicating that they regard it as unlikely that there will be an international agreement reached anytime soon for the post-Kyoto period.

Survey respondents were not optimistic that a binding international agreement could be achieved in the short term.⁴⁸

Asked how confident they were of there being 'a new legally-binding multilateral framework, similar to the current Kyoto Protocol, with legally-binding commitments to reduce emissions' close to 90 per cent of respondents were pessimistic or slightly pessimistic of any such framework being reached before 2015. More than 65% remained pessimistic or slightly pessimistic about there being a legally-binding replacement to Kyoto agreed before 2020.⁴⁹

Global company ExxonMobil argued in their submission that this pessimism is warranted and that if Australia ignores the reality of this situation it will be to our economic detriment:

⁴⁶ Mr Douglas Young, Law Council of Australia, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 52.

⁴⁷ Mr Douglas Young, Law Council of Australia, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 51.

⁴⁸ World Bank, *State and Trends of the Carbon Market 2011*, p. 17.

⁴⁹ *Ibid*, p. 18.

The international reality post-Copenhagen is that a unified international emissions-reduction strategy is unlikely for two reasons: the inherent difficulties of governance and enforcement across regions; and the fact that regions are at different stages of their national development and therefore approach emissions-reduction with a different balance of priorities. Post-Copenhagen, a 'mosaic' of national and regional approaches is emerging.

The implication of this reality is that countries with significant carbon prices on domestic emissions (such as Australia) risk exporting jobs, investment and carbon emissions to those without such costs. Trade exposed, energy intensive businesses including refining and LNG are especially vulnerable.⁵⁰

Witnesses and submissions to the inquiry expressed strong views that Australia should be seeking an effective and comprehensive global agreement before going down the path of imposing a carbon tax across our economy.

We remain strongly opposed to the introduction of a carbon tax and the subsequent trading scheme. Our consistent view is that a domestic carbon pricing mechanism should be contingent upon the operation of a broad based international agreement involving developed and developing countries. Until an international agreement is in place, our 350,000 members have indicated that reducing the growth in emissions should be achieved through efficiency and technology improvements.⁵¹

... it is agreed generally that Australia is a small player – 1½ or 1.3 per cent of emissions generally – and that, if in fact we were to operate on our own, it would have no effect on the goal of reducing the levels of emissions; it would just be torturing our own economy, costing us a lot of money and losing wealth and income. So I think the first answer is that we would certainly favour deferring any action until we can see a clearer picture of such action globally. I have to say that the picture we see at the present time is that only one group of nations – that is the EU – is taking action in any discernible measure in terms of reducing its emissions.⁵²

⁵⁰ ExxonMobil Australia Pty Ltd, *Submission 38*, p. 6.

⁵¹ Mr Greg Evans, Australian Chamber of Commerce and Industry, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 31.

⁵² Dr Alan Moran, Director Deregulation Unit, Institute of Public Affairs, *Committee Hansard*, 27 September 2011, p. 59.

Climate change is a global problem and therefore needs a global solution. That means that all the governments of the world should agree on the course of action. Copenhagen showed us that this is not possible, and indeed, that many countries are not interested at all.⁵³

I have 3 sons and 5 grandsons and I'm extremely concerned that climate change will significantly adversely affect their lives. As a result I am most anxious that all major polluters in the world significantly reduce CO₂ emissions. I urge you to delay imposition of the tax or other cost measures until we see similar commitment from the world's major polluters.⁵⁴

We the people are COMPLETELY OPPOSED to the carbon tax, which comes (inexplicably) as the global economy is heading for the toilet and our international competitors have NO PLANS to implement anything similar to this tax or emissions trading system. How will this tax regime make us anything but UNCOMPETITIVE in our region and the world?⁵⁵

The prudent and sensible course of action now is for the Australian Government to show leadership to the World by reacting to the changed global and domestic political and economic circumstances by deferring a carbon tax and emissions trading scheme until the global response to reducing carbon dioxide is clearer.⁵⁶

Even the commitments made under the non-binding Copenhagen Accord have been called into question as to their effectiveness and even their efficacy. Contrary to Treasury modelling assumptions that assume a clear minimum global commitment under the Copenhagen Accord, the United Nations Environment Programme Emissions Gap Report estimates that even pledges made on a strictly conditional basis by developed and developing countries are just 60 per cent of what is needed by 2020 to keep the world onto a trajectory that will keep global temperature rises to less than 2°C in comparison to pre-industrial levels⁵⁷. The International Energy Agency concurs, stating that the 2°C goal will only be achievable with a dramatic scaling up of effort.⁵⁸

⁵³ Ms Helen Miller, unaccepted submission, received 18 September 2011, 1.50PM.

⁵⁴ Mr Jim Driver, unaccepted submission, received 18 September 2011, 2.01PM.

⁵⁵ Mr Nicolaas de Vries, unaccepted submission, received 17 September 2011, 9.03AM.

⁵⁶ Mr Ian Lansdown, unaccepted submission, received 20 September 2011, 6.38PM.

⁵⁷ United Nations Environment Programme, *The Emissions Gap Report*, p. 16.

⁵⁸ International Energy Agency, *World Energy Outlook 2010*, Executive Summary, p. 3.

Coalition members of the inquiry don't seek to present a pessimistic outlook of global commitments, just a realistic one that allows Australia to make policy decisions with our eyes open rather than through distorted or rose-coloured glasses.

What policies are other countries pursuing?

Not only are many other countries not making the commitments needed to reduce emissions, they are not pursuing policies at all comparable to the carbon tax being advocated and advanced by the Labor Government in Australia. Even supporters of the carbon tax, such as the Climate Institute, acknowledge that action is not keeping pace with promises:

I think we would be the first people to acknowledge that the level of global action at the moment is insufficient to meet the temperature goals that countries have committed to internationally.⁵⁹

The impact of this was highlighted by, amongst many others, Rio Tinto:

The current CEF package exposes Australian businesses to some of the highest carbon costs in the world, placing them at a significant competitive disadvantage and generates a level of uncertainty that will discourage ongoing investment in Australia.⁶⁰

The World Bank report, *State and Trends of the Carbon Market 2011*, provides a useful snapshot of what action is or is not being pursued around the globe. The following points attempt to summarise some of its key findings, along with evidence from the Brookings Institute and information published by the Minerals Council:

- Canada has tied itself to the emissions reductions commitments and actions of the United States. Emissions trading is off the table at the federal level, in favour of sectoral action such as new fuel standards and new regulations on coal-fired electricity generation.
- Japan introduced legislation to the Diet in March 2010 that included consideration of an ETS component. Discussion on this component was deferred in late 2010 following strong opposition from industry and significant concerns about the cost to their economy. This deferral occurred before Japan faced the shock of this year's earthquake,

⁵⁹ Mr Erwin Jackson, The Climate Institute, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 41.

⁶⁰ Rio Tinto, *Submission 29*, p. 1.

tsunami and associated nuclear safety issues, which have created even more policy uncertainty.

- United States has seen Congress reject various moves towards national cap and trade schemes on four occasions in seven years and this year has seen Congress move to suspend Environmental Protection Agency powers to regulate emissions under the Clean Air Act. At the regional level the ETS planned within the so-called Western Climate Initiative is now in doubt among proposed participants like Arizona, Utah, New Mexico, Washington and Montana. Only a handful of states or provinces may participate in its planned 2012 start-up.
- China in its latest five year plan sets an emissions intensity reduction target against GDP of 17 per cent. This is consistent with their targets announced at Copenhagen which, according to analysis undertaken for the Brookings Institution and Harvard University will see China's actual emissions rise by 496 per cent by 2020, based on 1990 levels. The International Energy Agency projects China will still build new coal-fired generation capacity of 600GW by 2035.
- India submitted a voluntary target under the Copenhagen Accord of reducing emissions intensity against GDP by between 20 and 25 per cent by 2020, based on 2005 levels. The same Brookings / Harvard research suggests this amounts to an emissions rise of 350 per cent based on 1990 levels, while separate analyses have concluded that this pledge is actually above India's existing business as usual emissions projections.
- Russia made an 'offer' under the Copenhagen Accord to cut emissions by 2020 by between 15 and 25 per cent against 1990 levels. However, reports by the Institute for 21st Century Energy that in 2005 Russia's emissions were about 45 per cent below their 1990 levels and this generous 'offer' will actually see a rise on 2005 levels of 26 to 43 per cent by 2020.

Then there's the oft cited European Union (EU) who are preparing to move into the third phase of their ETS. The different phases of their ETS are instructive as to why claiming it as an example of what Labor proposes for Australia is misleading.

The early phases were the epitome of the old adage about starting low and going slow. Even in the second phase, now nearing its end, only around three per cent of permits were auctioned, with few industries targeted. As the Minerals Council of Australia has reported, over the first five years of operation the EU ETS raised about \$500 million per annum. The tax proposed for Australia will raise closer to \$9 billion. That's an impost 18 times more on an economy one-thirteenth the size.

Even in the planned third phase, the EU has kept a far sharper eye on minimising carbon leakage and the concomitant loss of jobs and industry than the Gillard Government has done with the proposed carbon tax. Industrial sectors deemed at significant risk of relocating production outside of the EU because of their carbon price will receive 100 per cent of permits for free, based on an efficiency benchmark.

These facts in relation to the differences between Labor's proposals for Australia and the EU scheme were highlighted by numerous submissions and witnesses to the inquiry:

... it is important to acknowledge that the rate of auctioning under this scheme ... is higher than it was at the start of most other emission trading systems, including the EU scheme.⁶¹

At \$23/t the CEF imposes on Australians a price that is at least 50% higher than the price being paid by Europeans⁶²

... if we net out those permits. It is \$50 billion in the first 6½ years for Australia and \$4.9 billion for the European Union, so there is 10 times more revenue out of the Australian scheme than out of the European scheme.⁶³

Senator BIRMINGHAM: are you able to tell us what approach the EU has taken to the lime industry?

Mrs DeGaris: we have not seen extensive trading and we have not seen the extensiveness or the coverage, for example, that this scheme is proposing for the industry here.

Senator BIRMINGHAM: You say that the fixed price is very high by global standards.

Mrs DeGaris: That is right – it is \$23 a tonne versus \$15 or \$16 a tonne that we can buy today.

Senator BIRMINGHAM: There is a floor-price mechanism built into this scheme as well. You have concerns about that?

Mrs DeGaris: Yes, certainly. That is another opportunity to keep the price high, to cost Australia for liability purposes a higher price on carbon credits, carbon units.⁶⁴

⁶¹ Dr Frank Jotzo, Crawford School of Economics and Government, Australian National University, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 23.

⁶² Australian Industry Greenhouse Network (AIGN), *Submission 33*, p. 2.

⁶³ Mr Brendan Pearson, Deputy Chief Executive, Minerals Council of Australia, *Committee Hansard*, 27 September 2011, p. 73.

⁶⁴ Senator Simon Birmingham; Mrs Roslyn DeGaris, Chief Executive officer, National Lime

Mr Pearson of the Minerals Council gave a detailed statement outlining the differences in the scale of the schemes between that proposed for Australia and the vastly different schemes operating in the EU or New Zealand, ultimately highlighting costs to business five times greater in Australia:

Mr Pearson: the minerals sector opposes the passage of the Clean Energy Future legislation. The first of the two questions I want to talk about is the fact that, on all measures, the proposed legislation will put forward the world's biggest carbon tax. The carbon price will be the highest. It will be \$23. That is 50 per cent higher than the EU price, 2½ times the New Zealand price and nearly 12 times the price that applies in the Regional Greenhouse Gas Initiative emissions trading scheme that operates in the north-east of the United States. The tax take per capita will be the world's highest. The tax take will be many, many times higher per capita than it has been in the European Union in the six years of the tax's operation to date and than it will be as we look forward.

The transition period for industry to adjust will be the world's shortest. In the European Union, an industrial firm will not buy all of its permits until 2027. In Australia, there will be hundreds of industrial firms, including in our sector, which will buy all of their permits from day one. So there is a 25-year transition for a European industrial firm and no transition for an Australian industrial firm. The level of assistance to trade-exposed industry will be the weakest in the world. Seventy-five per cent of European merchandise exports will be covered by free permits after they start auctioning permits in 2013. About 20 per cent of Australian exports will be exported by firms that will receive assistance.

The safeguards for jobs in the manufacturing sector and mining sector will be far inferior to those in the EU. There are 14.6 million Europeans working in manufacturing jobs that will receive free permits after 2013. Here, nine per cent of manufacturing jobs are in firms that will receive assistance under the Jobs and Competitiveness Program under this scheme. The cost burden on Australian exporting and importing competing industries will be the harshest in the world.

Think of an average firm, and you can call it Joint Select Committee Pty Ltd, operating with an identical emissions profile in Australia and in Europe of one million tonnes of CO₂ per year.

In the first three years of this scheme the Australian firm will pay \$72 million. It is receiving no assistance. As we have said before, very few Australian firms will. So there is a \$72 million burden for the Australian firm. The very same industrial firm in the EU, receiving no free permits because of its trade exposure, will pay A\$14 million.⁶⁵

Witnesses also highlighted concerns about the veracity of claims of action in some of the major emitting countries being made by the government and others:

It had been suggested that the Chinese were putting a price on carbon, but on closer analysis when the Productivity Commission looked at it they said, 'That price is quite low. It is lower than the price that we have here in Australia and it is not envisaged to go very much higher.'⁶⁶

India does have a price on coal, whether it is imported or domestic, of about \$2 per tonne. That is not very much different from the price we have on coal, which we call a royalty in New South Wales and in Victoria. It is a revenue price; it is not a price that would have any effect in terms of the operation of switching between fuels.⁶⁷

There is some new information that was provided by the Energy Information Administration, which is the US energy research body, in its *International energy outlook* on 19 September. In that report it projected that China's 2020 target that it agreed to in Copenhagen and Cancun is actually higher than 'business as usual' emissions. In other words, according to the projections from the US Energy Information Administration, China's emissions target in Cancun is actually higher than its emissions will be if it does nothing. In 2009 China's increase in emissions, 780 million tonnes, was more than Australia's total emissions. China's increase in coal consumption in 2009 was more than Australia's total coal production. In other projections, 75 per cent of the increase in world coal production to 2035 will occur in China.⁶⁸

⁶⁵ Mr Brendan Pearson, Deputy Chief Executive, Minerals Council of Australia, Committee Hansard, 27 September 2011, p. 71.

⁶⁶ Dr Alan Moran, Director Deregulation Unit, Institute of Public Affairs, Committee Hansard, 27 September 2011, p. 59.

⁶⁷ Dr Alan Moran, Director Deregulation Unit, Institute of Public Affairs, Committee Hansard, 27 September 2011, p. 60.

⁶⁸ Mr Brendan Pearson, Deputy Chief Executive, Minerals Council of Australia, Committee Hansard, 27 September 2011, p. 73.

The US is abandoning its efforts at the federal level and individual states are pulling out of previously announced emission reduction commitments. The Productivity Commission, in its research that assessed overseas emission policies, reported that of the 11 US States and Canadian Provinces that had agreed to a carbon tax, only one remains fully committed.⁶⁹

...China is not moving towards emission restraints, in spite of its leaders proclaiming they will show global leadership on the matter – wind and solar comprises less than one per cent of electricity supply. Japan stated at Cancun that it was not going to take further action towards promoting renewables and it would not introduce a carbon tax.⁷⁰

The Institute of Public Affairs joined with other submitters and witnesses in arguing that a tax or trading scheme in emissions may work in the event of relatively uniform global action but the very absence of such uniformity is a key factor in creating the problems they predict from the tax:

Mr Moran: If the whole world said, 'Bang! We are going to have a carbon tax of \$23 or whatever it is going to be and it is going to be on all countries,' there would be no or far less need for that sort of action. There would still be some issues. There are two matters. One is how we compete with the rest of the world, which is the nub of your question. We have to have a level playing field. The other is that people would have made investments based on certain assumptions of government and, if the government changes those assumptions, it could reduce the value of those investments and they may well request and receive compensation. That goes to the question: where are the property rights there? What would have been expected? What is reasonable? Is not clear, usually.

Senator BIRMINGHAM: So this type of pricing mechanism works, say, in the perfect economists' model, where you can create a nice vacuum and put all other issues to one side and everyone acts in unison, but does it work in the real-world situation we confront today?

Mr Moran: No. Obviously the government does not think it does either, because it does not have a perfect price mechanism; it has various industries in, various industries out, compensation here

⁶⁹ Institute of Public Affairs, *Submission 14*, p. 7.

⁷⁰ Institute of Public Affairs, *Submission 14*, p. 8.

and compensation there. Essentially, there is a recognition on the part of the government that the perfect solution is not the carbon price. Indeed, it has its carbon price and all the other accoutrements of the 20 per cent renewables and various subsidies in place. With a pure carbon price you would say, 'There is a carbon price. Get rid of the rest of it and let's go on from now.' I do not see anybody in government saying that.

Senator CORMANN: Isn't the problem that what we are told this whole carbon pricing package is supposed to address is for Australia to help reduce global greenhouse gas emissions but we are operating as part of a global market? The problem we are trying to address is a global problem. Because putting a price on carbon outside of an appropriately comprehensive global framework of pricing emissions does have international competitiveness implications, as well as creating various other distortions, the problem, really, is that we are trying to address a global problem through a domestic policy without being able to influence what happens in other parts of the world. Is that a fair comment?

Mr Moran: Yes, it is. It is almost like just putting a carbon tax in place in New South Wales and not the rest of Australia. You would see the industries migrating away from New South Wales to the rest of Australia. That is the same situation as what you are suggesting, I think.

Senator CORMANN: This is the last point I will have time to make. If there was an appropriately comprehensive global agreement, then addressing a global challenge through a global market based mechanism would be an effective way of going about it. The reason this is not effective is that the proposal is for Australia to act outside an appropriately comprehensive global carbon pricing framework. Is that right?

Mr Moran: That is right. There is no global carbon pricing framework; there is no policeman set up to do it; there is no way in which it can be done. It is basically goodwill and, indeed, it means Australia is certainly moving ahead of all its competitors and relying on the fact that they will come in behind us – which, if they do, it is well and good but, if they do not, it will destroy huge segments of our industry.⁷¹

⁷¹ Senator Simon Birmingham; Senator Mathias Cormann; Dr Alan Moran, Director Deregulation Unit, Institute of Public Affairs, Committee Hansard, 27 September 2011, pp. 60-61.

Again, many of the thousands of unpublished submissions received by the inquiry highlighted the significant differences between the tax proposed for Australia and schemes operating elsewhere in the world, as well the impact of such disparities:

To impose another tax on the Australian people, to attempt to change the world, without other countries doing the same is to ruin our economy completely. It will be helping world companies making billions out of the schemes governments have put in place saying they will curb global warming. It will be exporting carbon dioxide emissions to other countries such as China with no effect on the amount of carbon dioxide entering the atmosphere at all, as instead of buying Australian coal, they will use their own inferior product with greater effect on the amount of emissions.⁷²

I am currently based in Jakarta, Indonesia, and the people here (and around Asia) are laughing at our futile attempts at saving the world, and eagerly look forward to receiving all the business that will leave Australian shores.⁷³

I also believe that there is no need to introduce such a tax especially since the major emitters of carbon dioxide in the world, namely China and the USA have stated that they have no intention of introducing similar legislation in the near or medium future.

This legislation will place an unfair burden on our economy and make us less competitive in the world market and have a negative effect on our economy. It will increase inflation, increase unemployment and increase the cost of living. This will adversely affect all Australians but especially those who are in the lower socio-economic groupings.⁷⁴

If in the future America, China and India imposed the same legislation, it could be reconsidered, but for our country to impose this penalty at this time is sheer LUNACY..⁷⁵

How can we as a Nation continue to remain strong and self sufficient when we are forced to disadvantage ourselves in favour of other Nations who do not have this tax and to whom we must pay so much ?⁷⁶

⁷² Ms Lorna Murray, unaccepted submission, received 17 September 2011, 1.51PM.

⁷³ Mr Michael Smith, unaccepted submission, received 17 September 2011, 1.01PM.

⁷⁴ Mr Michael Bishop, unaccepted submission, received 18 September 2011 2.02PM.

⁷⁵ Pat Winton, unaccepted submission, received 18 September 2011, 1.48PM.

⁷⁶ Mr Edwin and Mrs Nannette Bailey, unaccepted submission, received 18 September 2011, 1.51PM.

High emitting industries will not cease production but merely transfer to other countries that do not require an equivalent tax or level of tax on carbon dioxide. Therefore a unilateral tax will have minimal effect on world pollution but will drive Australian manufacturing jobs off shore to other countries.⁷⁷

People were not happy about the GST but they accepted it because John Howard had been upfront about his intentions. The introduction of a carbon tax is not so urgent that it cannot wait until the next election given the rest of the world is not coming on board any time soon. In fact the carbon tax should be delayed until such time as America, China, India and the European union adopt a similar scheme. Why should we be putting ourselves at a competitive disadvantage by going it alone. I cannot see the logic in that.⁷⁸

My family and I - and everyone we know - are convinced that any introduction of this form of Tax must be put on the back-burner until the majority of all other countries, particularly those who emit the greatest levels of carbon dioxide emission - have joined a world-wide agreement for all countries to adopt a form of taxation that is applied in all countries.⁷⁹

Other nations, such as the USA, China and India are already moving on this issue and we risk getting left behind. But that's not true, is it? The fact is that emissions trading is dead in the USA at a national level and only a very few states have schemes. China may be investing in renewables but the large bulk of its power will come from coal-fired power for the foreseeable future. The PM is fond of pointing out that China is closing a coal-fired power station at the rate of one per week. What she fails to mention is that these are small inefficient plants (producing real carbon pollution - see above) and that they are being replaced by larger modern plants.⁸⁰

Models based on false assumptions

Despite all of the aforementioned evidence that brings into doubt the extent of global commitments to reducing emissions and the actions being undertaken to do

⁷⁷ Mr Bill Oakley, unaccepted submission, received 18 September 2011, 5.51PM.

⁷⁸ Angela and Paul, unaccepted submission, received 18 September 2011, 1.51PM.

⁷⁹ Mr Geoff Cass, unaccepted submission, received 17 September 2011, 3.00PM.

⁸⁰ Mr Peter O'Brien, unaccepted submission, received 17 September 2011, 9.58AM.

so, the Gillard Labor Government has claimed to have undertaken Treasury modelling for scenarios in which the world took uniform action to achieve either a 550ppm stabilisation target or an even more optimistic 450ppm target.

The Treasury confirmed their optimism, both as to the extent of the pledges made and the current action to implement them, stating 'we have taken the Cancun and Copenhagen pledges as something that governments will be implementing'⁸¹, going on to state:

What we have done in terms of the modelling assumptions for international action is use the Cancun pledges and operationalise them in our modelling. That is what we have done, but that does require that countries live up to those pledges.⁸²

Although this was tempered by some caveats:

Mr TONY SMITH: So, just to be clear: firstly, you are confident that the reductions you predict or assume in the modelling could be achieved, would be achieved, by the US by alternative means if they did not have an ETS in place?

Dr Gruen: We are doing the best we can do, based on the information available now. What will actually happen in the world remains to be seen, so I am not going to make statements about what will happen. I am happy to make statements about what are reasonable assumptions to make, given what we know now –⁸³

DCCEE at least conceded that in places the implementation looks unlikely, especially through measures comparable to the one being proposed for Australia:

If you come to the US in particular, their Cancun pledge was for a 17 per cent reduction by 2020. It is true that there are few people in the US at the moment that think they will achieve that through an economy-wide carbon price.⁸⁴

Others seriously doubt the basis for the assumptions:

Senator BIRMINGHAM: The Treasury has made all of its assumptions on the basis that the world will work towards a 550 parts per million stabilisation target, as it is known. Do you see evidence that the world is on track to achieve that?

⁸¹ Ms Meghan Quinn, General Manager, Macroeconomic Modelling Division, Treasury, Committee Hansard, 21 September 2011, p. 7.

⁸² Dr David Gruen, Treasury, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 5.

⁸³ Dr David Gruen, Treasury, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 5.

⁸⁴ Mr Blair Comley, Secretary, Department of Climate Change and Energy Efficiency, Committee Hansard, 21 September 2011, p. 8.

Dr Moran: No, I do not see any evidence. Indeed, there is no country other than in the EU which is taking action to get anything close to that. There is certainly no country, other than in the EU, that has gone even as far as Australia has with its 20 per cent renewables.⁸⁵

When looking at the detail of the modelling undertaken and challenged by Senator Cormann that the 2008 Treasury modelling assumed that Chinese emissions would be 16.1 billion tonnes of CO₂ by 2020 compared with updated modelling projecting that Chinese emissions will be 17.9 billion tonnes of CO₂ by 2020⁸⁶ the Treasury confirmed that:

expectations of Chinese development have improved relative to the situation in 2008. We have raised the level of output in China, taking on board the recent information ...our expectation is that, if people meet the Cancun Agreements, overall emissions in the world, which is what is important for tackling climate change, would be broadly consistent with the 550 parts per million trajectory, assuming people take action beyond 2020.⁸⁷

Coalition members of the inquiry query how it is that Treasury, within the space of a couple of years, dramatically scales up the anticipated 2020 emissions for the world's largest emitter, but simply assumes sufficient additional abatement action will occur beyond 2020 to offset that. Other witnesses also noted and questioned changes from earlier models of earlier proposals:

Treasury estimates of the costs we will incur have actually been reduced quite considerably over the past three years in their modelling. They are about half of what they originally suggested: \$2,700 per person per year and, in 2052, cumulative costs of about \$40,000, five per cent of GDP et cetera. I think we have to be very careful about the modelling. It has got a lot of assumptions, some of which are rather heroic. Several of them, for a start, involve all countries imposing a similar regime to that of Australia. We know at the present time that that is not taking place. Only the EU has similar regimes envisaged, or at least legislated for. Secondly, it does involve also rapid technological development in carbon capture and storage and other renewable technologies, and there really is not any evidence that this is happening anyway. Thirdly,

⁸⁵ Senator Simon Birmingham; Dr Alan Moran, Director Deregulation Unit, Institute of Public Affairs, Committee Hansard, 27 September 2011, p. 59.

⁸⁶ Senator Mathias Cormann, Committee Hansard, 21 September 2011, p. 9.

⁸⁷ Ms Meghan Quinn, General Manager, Macroeconomic Modelling Division, Treasury, Committee Hansard, 21 September 2011, p. 9.

it does entail a continued expansion of coal exports, which is difficult to envisage given the abatement regimes worldwide are intended basically to kill off coal. Certainly it would not be possible unless there were massive breakthroughs in carbon capture and storage, and, of course, there are not any such facilities anywhere in the world.⁸⁸

A particular concern emerges regarding the assumptions of international action made beyond 2020, with Treasury appearing to confirm that their modelling is based on countries making the same emissions reductions as they assume Australia will over that period, namely an 80 per cent reduction against the baseline:

You are talking about a 550 parts per million scenario. To 2020 we have modelled the pledges that countries have put on the table through the international negotiations. After that we have looked at a scheme where countries make the same emission reductions as each other relative to their 'business as usual' path. So the analysis is that OPEC would reduce its emissions relative to its business as usual path by the same amount as Australia.⁸⁹

Nonetheless, Coalition Senators welcome confirmation from DCCEE that the carbon tax proposed for Australia is at least five times greater in its initial impact than was the EU ETS, while querying the rationale for the complete dismissal that a “pilot phase” might have been a relevant comparison to make against the initial phase of Australia’s carbon tax:

If you were to try to do a comparison of the equivalent market size over the same period – the three years in the EU scheme of 2013-15 – and the Clean Energy Future package, the number for the EU ETS would be around 145 billion and the number for the Clean Energy Future package would be around 27 billion – if you were actually doing a like-for-like comparison. You would have the EU scheme being more than five times the size of the Australian scheme in the overall permit allocation on a like-for-like basis. I think the reason that these claims are a little unusual is that they are making comparisons of the first phase of the EU scheme, which was explicitly a pilot phase.⁹⁰

⁸⁸ Dr Alan Moran, Director Deregulation Unit, Institute of Public Affairs, Committee Hansard, 27 September 2011, p. 57.

⁸⁹ Ms Meghan Quinn, Treasury, *Proof Committee Hansard*, Canberra, 26 September 2011, pp. 8-9.

⁹⁰ Mr Blair Comley, Secretary, Department of Climate Change and Energy Efficiency, Committee Hansard, 21 September 2011, p. 16.

As well as concerns about the basis on which the Treasury modelling has been developed, numerous parties expressed concerns about access to the models:

The Treasury modelling as such has not been released in any detail, so people cannot examine it in the forensic way that he would like to. Certainly in my own examination of where they state their assumptions they all seemed to be very circular to me. The assumption is that we will continue growing as an economy. The finding is that we will continue growing because they assume we will. I think we have to be very careful in looking at models of that nature and drawing conclusions from them.⁹¹

We are also concerned, and this is one of the reasons that have delayed us somewhat in trying to put forward a response as to how we think the industry will be affected by the government's proposition, that Treasury modelling to a large extent is not transparent. That has made it somewhat more difficult.⁹²

At the very least, Coalition members would have thought a sense of prudence and caution would have necessitated taking the approach advocated by the Australian Industry Greenhouse Network, who stated that the Treasury modelling:

... provides very little insight into the likely economic impacts on Australia. None of the scenarios modelled by Treasury address one of the most likely international outcomes – that being the Government's commitment to a -5% below 2000 emission unit budget by 2020 within a fragmented international agreement. The short to medium term economic costs are not measured by Treasury modelling and the environmental benefits remain very uncertain in the absence of a robust international agreement.⁹³

⁹¹ Dr Alan Moran, Director Deregulation Unit, Institute of Public Affairs, Committee Hansard, 27 September 2011, p. 63.

⁹² Mr John Harry Pegler, Chairman, Australian Coal Association, Committee Hansard, 27 September 2011, p. 64.

⁹³ Australian Industry Greenhouse Network (AIGN), *Submission 33*, p. 5.

4. Emissions keep going up

A giant outsourcing project

The fact of the matter is that this policy does not guarantee a reduction in emissions, particularly within our domestic market within Australia. Even globally the combination of the growth in emissions within key countries, as addressed in section 3, and the potential for carbon leakage, addressed briefly in this section and again across sections 8 and 9, means that Australia's activities provide no guarantees of reductions.

Within Australia the Treasury modelling, with its optimistic assumptions of the extent of international action, makes it clear that in the period to 2020, even with the carbon tax in place, Australia's emissions still rise not just against the baseline year of 2000, but even go up 43 million tonnes against Australia's level of emissions in 2010⁹⁴. This point was highlighted in a number of submissions:

Australia's CO2 emissions were 578 million tonnes in 2010 and with the measures in place are expected to be 621 million tonnes in 2020.⁹⁵

By 2050, even with the passage of nearly 40 years and with the carbon price having reached \$131 per tonne, emissions in Australia will have dropped just 32 tonnes⁹⁶. Again, this point was highlighted in submissions:

Even in 2050, with all the optimistic assumptions about new technologies, industry restructuring and a carbon tax of \$131 Australian emissions are forecast to be 545 million tonnes ... the modelling assumes that half Australia's emission reductions will be purchased from other countries (largely Asia and Russia). This involves Australia paying countries to abate their own emissions. It also entails the overseas sources being able to abate more cheaply, something that, 40 years hence, it is inconceivable we could know.⁹⁷

⁹⁴ Treasury, *Strong Growth Low Pollution, Modelling a Carbon Price – Update*, p. 5.

⁹⁵ Institute of Public Affairs, *Submission 14*, pp.12-13.

⁹⁶ Treasury, *Strong Growth Low Pollution, Modelling a Carbon Price – Update*, p. 5.

⁹⁷ Institute of Public Affairs, *Submission 14*, pp. 12-13.

Under Treasury's modelled prices of \$29 in 2020 and \$131 in 2050⁹⁸, which they argue will be comparable to the international prices, Australian businesses will not only be paying multi-billion dollar bills to the Australian Government for permits, but will also be spending billions overseas to purchase additional permits:

Assuming Treasury's price estimates are accurate, Australia will be paying overseas carbon dioxide credit suppliers annual sums that range from just under \$3 billion in 2020 to \$57 billion in 2050. These are massive sums – the 2050 bill is greater than the value of our current exports from coal and more than twice the value of all our current agricultural exports. ⁹⁹

Some witnesses argued this structure of outsourcing our emissions responsibilities, often to our trading competitors such as the BRIC countries (Brazil, Russia, India and China), constituted a loss of opportunity to Australia and an abrogation of responsibility by Australia:

We find it paradoxical, and disadvantageous from the point of view of Australia's international competitiveness, that the proposed Carbon Pricing Mechanism will apply penalties (either directly through permits, or indirectly, through increased electricity and gas prices) to Australian businesses, whilst their competitors in the BRIC economies are paid to reduce their emissions. ¹⁰⁰

The tax will do nothing to reduce greenhouse emissions as we will be buying credits from other nations who have applied changes to their economy that actually cut emissions. I am not saying that Australia should not be doing something to reduce emissions but taxing citizens so we can buy credits from other countries is short sighted and does nothing to make a real reduction in emissions.¹⁰¹

... will paying a third party (particularly an overseas entity) to obtain a piece of paper granting 'carbon credits', in practical terms, achieve any real improvement to the environment. To me, a slip of paper does not in any way alleviate or remove any responsibility to make a physical and actual effort to manage the environment. In addition to being obliged to pay to obtain this slip of paper, the only real affect of proposed carbon tax will be to add to the cost of

⁹⁸ Treasury, *Strong Growth Low Pollution, Modelling a Carbon Price – Update*, p. 5.

⁹⁹ Institute of Public Affairs, *Submission 14*, pp.12-13.

¹⁰⁰ Exigency Management Pty Ltd, *Submission 43*, p. 6.

¹⁰¹ Mr Jason Horton, unaccepted submission, received 18 September 2011, 10.05PM.

nearly every commodity which, as we ought to all be aware, will be passed down to nearly every consumer.¹⁰²

Globally, submitters such as the National Lime Association highlighted how the leakage of emissions from Australia to other countries could harm the capacity to reduce emissions overall, not just those in Australia:

Failure of the assistance package to protect EITE industry until an international “level playing field” is established will result in carbon leakage, and failure of the environmental objective to reduce global GHG and avoid climate change impacts.¹⁰³

Exigency provided an example of how this may occur, highlighting along the way the nonsense of government claims that this package doesn’t involve payments to so-called polluters:

When we look at the clean energy policy, the whole point is that it pays polluters to reduce their emissions. The only difference is that those payments go to the developing nations overseas. Let me illustrate that with an example. I take a tonne of coal and I export that to China – I am not picking on China; it just happens to be a clever country. The emissions contained in that tonne of coal are free of carbon pricing. That tonne of coal is used to burn in a kiln to produce cement. That cement comes back to Australia in the form of railway sleepers to connect the new mines to the ports – again, free of a carbon price. So that has tilted the playing field against our own manufacturing base. Now, just to finish that picture, under the clean development mechanism, we pay the cement manufacturer an incentive payment to reduce the emissions from his overseas operation. The idea that an Australian focused policy pays polluters and, by inference, this carbon package does not is absolutely untrue.¹⁰⁴

Mr Allinson went on to argue that once a country starts outsourcing its emissions reductions through the purchasing of international permits there is ongoing pressure for it to continue doing so:

The real challenge for a penalty policy is: after the game starts, the lobbying does not stop. One of the key lobbying features that we see in Europe and that we will see here is that, once the permits are allocated, there will be continued lobbying to issue more

¹⁰² Ms Jan Collins, unaccepted submission, received 18 September 2011, 2.13PM.

¹⁰³ National Lime Association, *Submission 4*, p. 4.

¹⁰⁴ Mr Stuart Allinson, Director, Exigency Management Pty Ltd, Committee Hansard, 27 September 2011, p. 16.

permits because, as long as you have an open system with international credits, you can keep on issuing permits as long as you balance your national accounts with an equal number of offsetting international credits. So under this policy the federal government becomes the buyer of international credits of last resort. You cannot eliminate that risk and you cannot eliminate the rent seeking once we get the green light to go – I am sorry, but it continues under a penalty scheme.¹⁰⁵

Of the thousands of comments received by the inquiry, many questioned the impact of this approach on Australia, while others queried how Australia would afford to send such large sums overseas in the future:

Secondly, there is the purchase of abatement certificates. These are supposed to be purchased from ‘overseas’. Exactly where overseas and how is not clear. Quite apart from the potential for roting, a simple view of this proposal is that it will cost this country dearly as we condemn future generations to transfer our sovereign wealth “overseas”. If our industries have moved “overseas” and we have only limited and unreliable access to power from environmentally friendly wind and sun, how will we, as a nation, be able to pay anyway.¹⁰⁶

The Money to buy Credits will be money sent overseas. Australia cops a net Debit from this Carbon Tax concept. The Australian Government should be looking at ways for Australia to get Net Credits only form any decisions made. Consider concepts that generate Australia Value Add opportunities and Net Credits only from decisions at the National and International Level.¹⁰⁷

Credibility of international market

For this approach of relying greatly on international permits to work it requires the existence of reliable and effective permits. With the Treasury assumptions of agreed global action such markets may well exist, but given current trends in the international carbon market and the reality of international commitments and action there is cause for genuine concerns about the reliability of credible international permits into the future.

¹⁰⁵ Mr Stuart Allinson, Director, Exigency Management Pty Ltd, Committee Hansard, 27 September 2011, p. 16.

¹⁰⁶ Ms Margaret Port, unaccepted submission, received 18 September 2011, 11.01PM.

¹⁰⁷ Mr David Allen, unaccepted submission, received 18 September 2011, 5.08PM.

The World Bank report '*State and Trends of the Carbon Market 2011*' found that the total value of the global carbon market stalled in 2010. The value of the primary Clean Development Mechanism market fell by double digits for the third year in a row, ending lower than it was in 2005, the first year of the Kyoto Protocol period. Overall, the share of the global carbon market primarily driven by the European Union's Emissions Trading Scheme rose to 97 per cent in 2010, dwarfing all other segments.¹⁰⁸

Exigency made the point that, as is proposed in Australia, the EU has effectively outsourced its emissions reductions:

I am talking in terms of volume and environmental effectiveness. In the amount of paper that is traded, Europe is by far the vastest: there is \$150 billion of permits traded in Europe every year. What we need to think about in terms of scale, though, is its environmental effectiveness. The European scheme is only environmentally effective because it has fundamentally outsourced its abatement activities to the clean development mechanism.¹⁰⁹

DCCEE acknowledged the reality of the diminishing global markets, while suggesting it was caused by international uncertainty which, as discussed in section 3, appears unlikely to end anytime soon:

I think the other thing that is very important to note about the CDM is the supply has slowed down largely in response to uncertainty about the international regime post 2012 but also in terms of which markets are likely accept CDMs.¹¹⁰

There is effectively only a European rather than a 'global' market, and even it has its problems, with the theft in January this year of €45 million of EU allowances leading to the closure of national carbon registries. In March of last year Hungary was caught out selling Certified Emissions Reductions that had already been surrendered under the EU ETS.¹¹¹

The same World Bank Report, under the heading "The Carbon Market in Crisis?" summed up the woes of the various mechanisms that comprise the global carbon market:

¹⁰⁸ World Bank, *State and Trends of the Carbon Market 2011*, p. 9.

¹⁰⁹ Mr Stuart Allinson, Director, Exigency Management Pty Ltd; Mr Adrian Palmer, Director, Exigency Management Pty Ltd, Committee Hansard, 27 September 2011, p. 17.

¹¹⁰ Mr Blair Comley, Secretary, Department of Climate Change and Energy Efficiency, Committee Hansard, 21 September 2011, p. 7.

¹¹¹ World Bank, *State and Trends of the Carbon Market 2011*, p. 40.

“The Clean Development Mechanism continues to suffer from registration and issuance delays due to complex procedures and capacity constraints. The Joint Implementation mechanism continues to be challenged by inefficient domestic bureaucracy and varying political support. There have been sovereign suspensions under the Kyoto Protocol and alleged misappropriation of Assigned Amount Unit sale revenues. The EU-ETS has suffered from alleged VAT fraud, money laundering and theft leading to registry suspensions and a dramatic loss of confidence and liquidity on the spot markets.”¹¹²

Other witnesses also highlighted the questionable status of the global carbon markets:

... purchasing emissions from overseas, at quite a considerable total cost, equivalent to something like twice the present value of our exports of food and something like the total cost of our current exports of coal. So it is a large balance of payments, a large impost – a gift, if you like, to the overseas suppliers of these credits, for some of whom their source integrity is under doubt.¹¹³

Even supporters of the carbon tax acknowledged these problems:

... there have been some unfortunate and very specific examples where there have been problems with the development of the global market ...¹¹⁴

To avoid the problems that have beset the market elsewhere, especially given the vast sums of money involved, the committee heard the system would require extensive policing:

Verification would require a comprehensive policing to ensure payment is for genuine savings. Assuming Treasury’s price estimates are accurate, Australia will be paying overseas carbon dioxide credit suppliers annual sums that range from just under \$3 billion in 2020 to \$57 billion in 2050. These are massive sums – the 2050 bill is greater than the value of our current exports from coal and more than twice the value of all our current agricultural exports.¹¹⁵

¹¹² World Bank, *State and Trends of the Carbon Market 2011*, p. 41.

¹¹³ Dr Alan Moran, Director Deregulation Unit, Institute of Public Affairs, Committee Hansard, 27 September 2011, p. 57.

¹¹⁴ Mr Erwin Jackson, The Climate Institute, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 47.

¹¹⁵ Institute of Public Affairs, *Submission 14*, pp. 12-13.

Even the manner in which the government has structured the use of international permits in Australia drew criticism from some witnesses:

The floor price on international permits could lead to inefficient carbon abatement outcomes and will raise the cost of the scheme for Australia. Implementation of the proposed top-up fee will be costly and difficult to administer. In our view it should be removed.¹¹⁶

Equally, many of those submissions not published by the inquiry raised concerns about the reliability of the global markets on which so much of this scheme depends:

This proposed tax is totally unnecessary, and will cause huge damage to this country's jobs, productivity and economy. It will cause \$30 billion to be sent overseas to buy carbon credits, with no lowering of our own carbon emissions and virtually no help to the planet.¹¹⁷

Treasury figures show that we will achieve real cuts of only 60 million tonnes. The remaining 100 million tonnes of 'abatement' will have to come by purchasing carbon credits from overseas, at an estimated cost of \$3 billion. Perhaps we could buy some of them from the five new coal-fired power stations in India and China that have been awarded nearly \$1 billion in free carbon credits by the UN under its' Clean Development Mechanism! By the way, that's money going to dubious overseas schemes for which we will receive only the satisfaction of knowing we have 'done the right thing'. It's money that will not be available to fund the ongoing so-called 'compensation'.¹¹⁸

Buying Carbon credits from other countries with dubious economic backgrounds is a recipe for disaster.¹¹⁹

Already driving a 'clean energy future'

Labor have billed this legislation as important to 'transforming Australia to a clean energy future'¹²⁰ but as discussed over the previous pages their carbon tax

¹¹⁶ Origin Energy Limited, *Submission 18*, p. 2.

¹¹⁷ Hilary Blakiston, unaccepted submission, received 18 September 2011, 1.49PM.

¹¹⁸ Mr Peter O'Brien, unaccepted submission, received 17 September 2011, 9.58AM.

¹¹⁹ Ms Michelle Davis, unaccepted submission, received 20 September 2011, 3.16PM.

¹²⁰ For example, Australian Government, *Securing Australia's clean energy future: the Australian Government's climate change plan*, p. 15.

proposal actually outsources much of the change and delivers minimal change within Australia.

Numerous witnesses, such as the Clean Energy Council and GE, acknowledged that the Renewable Energy Target (RET), a policy initially implemented by the Howard Government and one that enjoys bipartisan support, is actually the primary driver of investment in renewable energy:

From our perspective the renewable energy target – the RET you are referring to – is the key driver of large-scale renewable energy in Australia. That scheme was split into a large- and small-scale scheme last year with the support of all major parties in the parliament and it will underpin investment in renewables through to 2020 and beyond.¹²¹

The RET is the prime driver for additional renewable energy generation in Australia. The January 1, 2011 reforms with the segregation of the RET into large-scale and small-scale targets provides sustainability for the policy post-20% 2020 increase (or enhanced RET) legislated for in 2009.¹²²

AGL agreed with the assessment of the Clean Energy Council and highlighted some of the other benefits of the RET:

Mr Kelley: When the policymaker looks at why we would have a renewable energy target there are two benefits. Firstly, there is energy security, reliance on other sources and other suppliers of energy is eliminated through renewables. Secondly, to kick-start that transition to a low emission portfolio a renewable energy target is the perfect stimulus for that.

Senator BIRMINGHAM: Even if this legislation passes, in the immediate future the primary driver of investment in renewables in Australia will remain the RET won't it?

Mr Nelson: That is true.¹²³

AGL further argued that the RET target of achieving 20 per cent renewable energy by 2020 is expected to deliver around \$30 billion in investment.¹²⁴ Such investment is already delivered large results:

¹²¹ Mr Matthew Warren, Chief Executive, Clean Energy Council, Committee Hansard, 27 September 2011, p. 40.

¹²² GE Energy Australia and New Zealand, *Submission 11*, p. 3.

¹²³ Mr Simon Kelley and Mr Tim Nelson, AGL Energy, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 26.

¹²⁴ Mr Simon Kelley, AGL Energy, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 24.

Mr Griffin: Infigen is the largest owner-operator of wind farms in Australia. We have wind farms operating near Geraldton, at Mount Gambier in South Australia and near Bungendore in New South Wales. We have a large pipeline of wind farm and solar farm projects in Queensland, New South Wales, Victoria, South Australia and Western Australia.

Mrs GASH: How many more would you have in the pipeline?

Mr Griffin: We have close to 2,000 megawatts of new projects under development. As a case study, near Bungendore we have Capital Wind Farm and Woodlawn Wind Farm, which is immediately adjacent to it and connected to the same substation. Capital Wind Farm was fully commissioned at the start of 2010 and Woodlawn Wind Farm will be complete in a matter of weeks.¹²⁵

The Clean Energy Council highlighted the transformational impact this more positive policy is already having on the renewable sector within Australia:

the RET is demonstrated to deliver the lowest-cost large-scale renewable energy projects. I should say, as an adjunct, the SRES is delivering and has delivered significant deployment of both rooftop solar hot water and solar PV. It is worth noting that the cost of solar PV has fallen so dramatically globally. It is a stunning success story of what disruptive innovation looks like. The Australian industry is now talking about being able to deploy that technology at a \$1.50 a watt, which basically means it is game over. The technology will be ubiquitous across Australia for the rest of the century. It is past the tipping point of being a potential technology.¹²⁶

Organisations like ClimateWorks Australia presented evidence to the committee that there is more that could be done within Australia to reduce emissions:

We excluded the purchase of international credits from our research because we wanted to show what was available on our own shores. I think that what pleased many readers of this report is that there is more available on our own shores than many realised.¹²⁷

¹²⁵ Mrs Joanna Gash MP, Member for Gilmore; Mr David Griffin, General Manager Development, Infigen Energy, Committee Hansard, 27 September 2011, p. 53.

¹²⁶ Mr Matthew Warren, Chief Executive, Clean Energy Council, Committee Hansard, 27 September 2011, p. 41.

¹²⁷ Ms Anna Skarbek, Executive Director, ClimateWorks Australia, Committee Hansard,

Coalition members of the inquiry believe that if Australia is serious about meeting targets to reduce emissions, which we believe as a responsible global citizen we should be, then these opportunities at home should be realised through more positive, incentive based action than Labor's approach of applying penalties at home and incentives abroad.

5. Hurting households

Prices will go up

All Australians will pay for the carbon tax, be they big businesses, small businesses, charities, institutions, governments or households. They will pay as the increased costs faced by those forced to pay the tax directly or those facing increased fuel costs are passed on to all consumers of goods and services, especially through key utilities and “emissions intensive products, such as electricity and gas used for heating”¹²⁸.

As Labor’s climate change adviser Professor Garnaut said in his updated advice to the government earlier this year:

Australian households will ultimately bear the full cost of a carbon price.¹²⁹

Unsurprisingly, electricity price rises as a result of the carbon tax stand out. As a result of this Labor Government policy, the optimistic Treasury modelling indicates that electricity prices will rise by between 9 and 11 per cent more than would otherwise have been the case in the near term and by between 23 and 38 per cent over the period to 2050¹³⁰. The variances in these figures relate to which state households or businesses are in, with Victoria and Queensland the worst affected in the short term, while Western Australia and New South Wales feel the greatest impact over the longer term.

One of the many unpublished submissions highlighted the particular impost on Western Australia, where electricity price rises out to 2050 are forecast to reach 38 per cent:

I live in Western Australia and I cannot believe that we have the newest coal fired power stations in the country and yet they do not qualify under the proposed scheme for the exemptions enjoyed by the older eastern states coal fired power stations. This increase in cost will undoubtedly be passed on to the consumer in a number of ways not just the cost to turn the light switch on at the family home. The cost of living in this country is already out of hand.¹³¹

¹²⁸ Treasury, *Strong Growth, Low Pollution, Modelling a Carbon Price*, p. 134.

¹²⁹ Professor Ross Garnaut, *The Garnaut Review 2011*, p. 17.

¹³⁰ Treasury, *Strong Growth Low Pollution, Modelling a Carbon Price – Update*, p. 12.

¹³¹ Mr Aaron Antonas, unaccepted submission, received 19 September 2011, 10.06PM.

During the first year of the fixed price period, namely 2012-13, it is expected the impact will be most severe, with the percentage rises translated in the Treasury modelling into the estimated weekly impost on households:

Household expenditure, on average, is expected to increase by \$3.30 per week due to higher electricity prices and by \$1.50 per week due to higher gas prices.¹³²

While these may sound like small increases to some people, Coalition members of the inquiry recognise that they translate into hundreds of dollars of extra costs for families and households around Australia. And that is before the price impact is passed through to all other goods and services people need.

The Democratic Labor Party highlighted the impact such price rises would have on families in particular, arguing the cost impact of the carbon tax becomes greater with each child added to a family:

Families ought not be faced with the threat of increasing taxes as their families grow. More importantly, families ought not be faced with increasing taxes as they welcome another child into their home. Yet this is what the proposed Carbon Tax is designed to do.¹³³

Unsurprisingly, the impact on households and the cost of living drew an enormous reaction from Australians of all walks of life, with a large proportion of the thousands of unpublished submissions received by the inquiry addressing this issue. Many realised that the cost rises faced by businesses as a result of this tax will be passed on:

I do not believe for one moment that the cost will not trickle down to and affect my business and my lifestyle. I say that simply because I cannot ever remember ANY tax or government impost in that past that has not. The very nature of the way western economies are run ie: Supply and Demand essentially, dictates that all costs are passed up or down the economic ladder, eventually and irrespective of protection, government legislation and handouts.¹³⁴

This is a BAD tax for Australia, it will push up the cost of living and make us, the working Australians, poorer. If you think the

¹³² Treasury, *Strong Growth, Low Pollution, Modelling a Carbon Price*, p. 134.

¹³³ Democratic Labor Party of Australia (Victorian State Branch), *Submission 7*, p. 3.

¹³⁴ Mr Peter Heffernan, unaccepted submission, received 17 September 2011, 2.50PM.

major polluters are not going to pass on the tax to the consumers you are very much mistaken.¹³⁵

Any suggestion that it will only be "large polluters" who will pay this tax, is totally untrue and an insult to intelligent Australians. The "flow-on" effect to consumers will be devastating financially, as many are already struggling to cope with the rising cost of living.¹³⁶

Industry will not bear the cost alone of this tax, but will pass it on to the consumers of these goods- us. We will bear the greater cost. Average Australians are doing it tough already, with costs of things rising, e.g. Electricity, rent, and basic cost of living. Taxpayers, who supply this country's money supply are such as these and are not an endless source of money for the Government to milk.¹³⁷

To tax 500 of the country's largest emitters of carbon dioxide is NOT a protection for residents from bearing the impact of the tax as all 500 companies will pass on these costs to consumers. To claim otherwise is disingenuous.¹³⁸

I can barely afford my mortgage repayments, child support payments and the cost of utilities, let alone the other cost increases that are going to occur under the Carbon Tax. You may say that only the "big polluters" get hit with this tax but we all know that it is everyday people like me that get hit in the neck with this.¹³⁹

I'm a uni student... don't forget that a carbon tax will impact on the price of everything that has to be delivered anywhere, and impacts on public transport as well as private transport. if you make big businesses absorb the costs then they will pass those costs onto everyone, and anyway, what is the purpose of a tax that doesn't create surplus? Someone has to lose and if it's the suppliers, then it's the consumers too.¹⁴⁰

¹³⁵ Ms Janet Stringer, unaccepted submission, received 17 September 2011, 12.33PM.

¹³⁶ Ms Helen Topolski, unaccepted submission, received 17 September 2011, 12.34PM.

¹³⁷ Ms Colleen Varlow, unaccepted submission, received 18 September 2011, 2.04PM.

¹³⁸ Chris Bedford, unaccepted submission, received 18 September 2011, 2.12PM.

¹³⁹ Mr Sean Unwin, unaccepted submission, received 18 September 2011, 1.51PM.

¹⁴⁰ Rikki Gee, unaccepted submission, received 19 September 2011, 10.05PM.

The big companies are just going to be passing the costs on and in time, the rebates (for those eligible) will have no effect at all in countering the increased costs of living.¹⁴¹

Others highlighted the continually increasing nature of the carbon tax, which goes up every year, from the fixed \$23 in 2012 to a forecast \$131 by 2050:

I have read up on this subject and I believe that implementing such a tax will cause financial hardship to people of Australia. This tax will start off at one level and will no doubt increase to a higher level as time progresses.¹⁴²

The cost of living has increased considerably in the last couple of years, particularly petrol, electricity and food. I believe the Carbon Tax will increase the cost of living even further.¹⁴³

Australians are under pressure

Australians are already feeling a significant cost of living pressure. The inquiry heard from thousands of people who know that the carbon tax certainly won't do anything to ease that pressure and fear that it will make it worse.

Agencies working in the welfare and community services sector brought to the attention of the inquiry the cost of living pressures that many households face and the particular role that costs of basic utilities, such as electricity prices, play in those cost of living pressures:

Low-income earners are the most vulnerable to even small increases in costs of living, as spending on food, fuel and utilities takes up a large portion of weekly income. While the Government's proposed compensation measures aim to support households according to income bracket, we are particularly concerned about the impact of rising electricity prices.¹⁴⁴

...38% (rounded) of the poorest 30% of Australia's households were unable to pay electricity bills on time, due to financial stress, while 15% (rounded) of Australia's total population were unable to pay for electricity on time, a significant indicator of financial stress... It is most likely that a higher proportion of the population would now be unable to pay electricity bills on time.¹⁴⁵

¹⁴¹ Ms Jennifer Tan, unaccepted submission, received 19 September 2011, 10.19PM.

¹⁴² Ms Carol Petith, unaccepted submission, received 17 September 2011, 12.19PM.

¹⁴³ Ms Lina Coffey, unaccepted submission, received 18 September 2011, 2.07PM.

¹⁴⁴ UnitingJustice Australia, *Submission 37*, p. 4.

¹⁴⁵ Uniting Care Australia, *Submission 65*, pp. 10-11.

AGL equally highlighted the impact of rising electricity costs, indicating that under their predictions by 2015 it is possible that 6.6 per cent of households will be spending more than 10 per cent of their disposable income on electricity.¹⁴⁶

The impacts of these price rises have resulted in an increase in the need for assistance to households to cope with rising costs. UnitingCare Australia and the Brotherhood of St Laurence highlighted such schemes:

... that involve partnerships with utility companies to address and ameliorate people's energy poverty. We run one in several states now, the Kildonan model, in partnership with utility companies. It is a model that enables someone who, from the utility company's perspective, is a bad debtor, but, from our perspective, is somebody who is in dire financial and usually family crisis to be able to turn their lives around over the course of a year.¹⁴⁷

Many low income earners, particularly pensioners, retirees, carers and young people, contacted the inquiry to express their concerns and highlight their personal situations with respect to cost of living pressures:

From a personal point of view it is difficult enough for retirees now to cope with all the price increases that have occurred in essential goods over the last couple of years, without further excessive increases due to another tax.

As I get a small super widows payment from the state government, I will not be entitled to any pension increase, and the proposed tax assistance is negligible. I will get no assistance whatsoever with these increased living expenses.¹⁴⁸

I write to express to you my deep opposition to the proposed Carbon Tax, I am a pensioner and at the present can barely afford my utilities charges now I am reliably informed that all the utilities will raise their Prices to accommodate this.¹⁴⁹

I am writing this submission as both a concerned Australian resident and as one who relies on a carers pension for the survival of myself and my two children with Autism. I have been following the Carbon tax debate and researching as much as possible over the last few months. It has come to my attention that if the full

¹⁴⁶ Mr Tim Nelson, AGL Energy, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 26.

¹⁴⁷ Ms Lin Hatfield-Dodds, UnitingCare Australia, *Proof Committee Hansard*, Canberra, 26 September 2011, p.62.

¹⁴⁸ Ms Lorna Murray, unaccepted submission, received 17 September 2011, 1.51PM.

¹⁴⁹ Mr Tate Prentice, unaccepted submission, received 17 September 2011, 12.25PM.

price off the carbon tax was passed onto consumers (as has been predicted) then the total cost of living for myself would exceed the proposed compensation by a calculated three to four hundred dollars per year. As you can imagine the Carers Pension is only \$250 a week, so this expense rise will take a heavy toll on my family that is already struggling to meet its financial obligations.¹⁵⁰

I am only 21 years old and don't live at home. I find it extremely difficult to pay for all of the utilities I use and have had to cut back on food allowances to be able to pay for my bills. The carbon tax will not help me in any way shape or form when it comes to paying for living expenses.¹⁵¹

Others highlighted the extent of the existing tax burden on Australians or the particular pressures felt by families:

I feel that as a nation we are already heavily taxed and that any further tax would become a such a financial burden on many Australians that financially they will be at a crisis point.¹⁵²

My firm belief is that this tax will harm the Australian economy, and that major companies taxed will pass on the increased cost of production to consumers, and that families already struggling under increased cost of living will be even harder hit.¹⁵³

I am an average Australian with a wife and three kids. I struggle to pay my bills now as it is. This carbon tax will not change the climate one bit but will cost the average person hundreds if not thousands of dollars a year for no gain. It is a tax to spread wealth, that's all it is.¹⁵⁴

I am a 46 year old wife and mother of 4 children. My husband is a self employed truck driver and I am an Allied Health worker. My husband works up to 80 hours per week and I work full-time. This will send my family budget up more than you would even know or estimate. We already have had huge increases in our electricity and gas bills and I don't know how much more we can absorb. You would consider us high income earners, however with a

¹⁵⁰ Mr Matthew South, unaccepted submission, received 18 September 2011, 7.21PM.

¹⁵¹ Mr Calum Susko, unaccepted submission, received 19 September 2011, 9.34AM.

¹⁵² Mr H. Grech, unaccepted submission, received 18 September 2011, 1.51PM.

¹⁵³ Mr Paul Barfoot, unaccepted submission, received 18 September 2011, 2.36PM.

¹⁵⁴ Mr Paul Delaney, unaccepted submission, received 18 September 2011, 1.46PM.

mortgage and 4 dependent children living in Sydney's western suburbs, I can assure you we are not affluent.¹⁵⁵

My husband's income is seen as 'high, and therefore I only receive a part pension of \$23.70 per fortnight. I have a chronic health condition for which I need a lot of medication and supplements, and my son who is 15 year, has autism and severe language delays. And yet, a mere increase in my husband's salary of \$20 per week would deem me ineligible for any pension whatsoever. I don't mind paying taxes if I can see what the money is being used for (and see a good cause), but I you cannot get blood from a stone. We, the people of Australia, are slowly being squeezed in any and every way possible.¹⁵⁶

Other submitters, such as Mr Jason Horton, simply posed the question of whether 'the risk of rising power generation costs and subsequently retail energy prices' would push basic services out of reach of many Australians 'with some choosing to live without heating and cooling in fear of the cost'. Mr Horton asked the insightful question 'if the impact of the tax was negligible why then does the package include huge sums of compensation that are at risk at some future time for removal?'¹⁵⁷

Millions still worse off

Around three million Australian households will, according to the Government's own optimistic modelling, be worse off under this carbon tax proposal. The Government expects Australia to have nine million households by 2012-13 and claims that almost six millions 'will receive assistance that covers at least the average price impact of the carbon price on their cost of living'¹⁵⁸.

Labor claims 'households will see cost increases of \$9.90 per week, while the average assistance will be \$10.10 per week'.¹⁵⁹ Coalition members of the inquiry note that the assistance payments are fixed and certain, while the estimates of cost increases are just that, estimates based on modelling that itself is based on optimistic assumptions about the operation and impact of Labor's carbon tax policy.

¹⁵⁵ Ms Karen Campbell, unaccepted submission, received 18 September 2011, 2.01PM.

¹⁵⁶ Alex Clark, unaccepted submission, received 20 September 2011, 10.03PM.

¹⁵⁷ Mr Jason Horton, unaccepted submission, received 18 September 2011, 10.05PM.

¹⁵⁸ Australian Government, *Supporting Australian households: Helping household move to a clean energy future*, p. 5.

¹⁵⁹ Australian Government, *Supporting Australian households: Helping household move to a clean energy future*, p. 5.

With an average buffer of just 20 cents per week, the estimates of the average cost impact of the carbon tax on Australian households would need to be out by little more than 2 per cent for millions more Australian households to find themselves joining the three million who are already known to be worse off.

Coalition members of the inquiry are also concerned that many of the low income households the Government forecasts to be better off may in fact be worse off as a result of their high exposure to electricity price rises:

Some low-income households are very low users of energy. Some of them are high users of energy because they have disabilities, chronic health conditions, lots of kids and there is a lot more need in the household or they are living in rental properties, particularly private rental properties, where the infrastructure is not being renewed.¹⁶⁰

In some instances the compensation being offered lacks transparency. While the changes to the tax free threshold, income tax rates and Low Income Tax Offset may bring greater transparency to the marginal rate of tax, they have been misrepresented by many within the Government, including the Prime Minister who claimed without qualification to be “tripling the tax free threshold”¹⁶¹. The truth of these tax interactions is more complex:

The low-income tax offset, which is currently \$1,500, reduces to \$445 and the withdrawal rate reduces from four per cent to 1½ per cent. Currently what happens is that through the range from about \$37,000 to about 67½ thousand dollars people are effectively paying 34c in the dollar currently, being 30 per cent on the statutory rate and four per cent on the withdrawal of the low-income tax offset. Effectively what the changes do is rebalance and make more transparent the rate that people are paying. So the effective rate will still be 34 per cent through \$37,000 to about \$67,000.¹⁶²

One of the disturbing elements of the so-called compensation package that accompanies the carbon tax is the increase in income tax rates, with the 15 per cent rate increasing to 19 per cent in 2012-13 and the 30 per cent rate increasing to 32.5 per cent in 2012-13 and rising further to 33 per cent in 2015-16.¹⁶³ This will bring

¹⁶⁰ Ms Susan Helyar, UnitingCare Australia, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 62.

¹⁶¹ Hon Julia Gillard MP, Sydney Morning Herald, *Gillard Promotes Carbon Tax at Forum*, 5 October 2011.

¹⁶² Mr Marty Robinson, Manager, Household Modelling and Analysis Unit, Treasury, Committee Hansard, 21 September 2011, p. 12.

¹⁶³ Australian Government, *cleanenergyfuture Fact Sheet: Household Assistance – Tax Reform*, p. 3.

about the first increase in marginal tax rates in Australia since the 1980s, increasing disincentive within the tax system and further harming Australia's competitiveness.

Coalition members of the inquiry also note that the thresholds for eligibility to receive the planned assistance are often fixed and concur with the Council of the Ageing that 'threshold creep' may quickly see many Australians lose eligibility for compensation they are currently being promised:

One of the issues that COTA is concerned about is that, to keep the value of the package, the income levels that are used to set eligibility for some of the payments, such as the Commonwealth seniors health card and the low-income supplement, need to be indexed in the future to keep pace with increases in average incomes in the community, otherwise people are going to have bracket creep out of eligibility quite quickly. That is one of the things that are not built into the package that needs to be there.¹⁶⁴

For most Australians any compensation comes solely in the form of the income tax adjustments. However, these are at risk of being subjected to 'bracket creep' just as other payments may face 'threshold creep' with the committee receiving evidence that confirms there are only two adjustments to income tax planned in the package before the parliament, notwithstanding the estimates of the carbon tax impact stretching out to 2050:

Ms Winzar: There is also a standard provision for indexation of income support payments and family payments going forward beyond the period covered by this first phase.

Senator BIRMINGHAM: That is only part of the compensation, though?

Ms Winzar: That is true.

Senator BIRMINGHAM: And it does not reflect the income tax adjustments.

Ms Winzar: No, the income tax adjustments are handled separately.

Senator BIRMINGHAM: There are only two phases of income tax adjustments – is that correct?

Ms Winzar: Yes.¹⁶⁵

¹⁶⁴ Ms Josephine Root, COTA Australia, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 60.

¹⁶⁵ Senator Simon Birmingham; Ms Peta Winzar, Group Manager, Department of Families,

Labor has repeatedly promised that compensation will keep up with the increasing cost of the carbon tax. However, when questioned during the inquiry about this promise, the DCCEE was unable to point to any part of the legislation before the committee and the parliament that actually delivered on the promise:

Senator BIRMINGHAM: I just turn to a statement the Prime Minister made on 11 July 2011, when she said:

Compensation is going to keep increasing so that as the carbon price moves, household assistance is permanent and it will continue to increase as well

How does this legislation fulfil that promise?

Mr Comley: Treasury can come up the table and talk about that if they want. That is a question of the tax law. But I believe that is a policy commitment – the intention of the government going forward.¹⁶⁶

Given the Gillard Labor Government's lack of commitment to its previous intentions regarding having a carbon tax, Coalition members of the inquiry are deeply worried about relying on a commitment or intention of the government that is not actually reflected in the laws that are currently being rammed through the parliament.

There is even a question as to whether the Government will be able to fund increases in compensation within the budget into the future. As established in section 4 of this report, ever increasing billions of dollars are expected to be spent under this plan by Australian companies to purchase international permits. DCCEE confirmed that companies would pass on these costs to consumers but was unable to clearly demonstrate how government could fund ongoing compensation given the billions of dollars in revenue from the purchase of international permits that goes overseas rather than into government revenue:

Mr Comley: Purchases of international permits by domestically liable parties do not go into the budget in any way because they are not through the government.

Senator BIRMINGHAM: Yes, indeed, Mr Comley, as you said before; however, those companies will pass on the costs, won't they?

Mr Comley: Yes, and that is factored into the modelling.

Housing, Community Services and indigenous Affairs, Committee Hansard, 21 September 2011, p. 21.

¹⁶⁶ Senator Simon Birmingham; Mr Blair Comley, Secretary, Department of Climate Change and Energy Efficiency, Committee Hansard, 21 September 2011, p. 20.

Senator BIRMINGHAM: Can you explain how it is then that the government will be able to keep compensation up with those costs that are passed on when the government is not receiving the funds for those international permits that are purchased?

Mr Comley: It still has sufficient funds to do that because of the expectation of auctioning the permits.

Senator BIRMINGHAM: How do you know? Can you present some evidence that there are sufficient funds?

Mr Comley: We have not got modelling beyond the forward estimates, but the government has made a policy commitment to do that on an ongoing basis.¹⁶⁷

As outlined in section 9 of this report, Mr Comley went on to suggest that there may need to be a trade-off between industry compensation or household compensation ... a policy decision for the future that Coalition members of the inquiry note would result in a choice between further damaging the competitiveness of Australian industry or placing further pressure on the cost of living.

Coalition members of the inquiry also note that the current package of government measures runs at a budget deficit of more than \$4.3 billion over the forward estimates¹⁶⁸; a period during which all revenue comes to government due to the initial prohibition on using international permits. This begs the question, if the Government cannot provide the compensation required to underpin its carbon tax without increasing the budget deficit when there is no cost impact from the use of international permits, how on Earth does it believe it can ensure compensation will keep pace when there is a cost impact from the use of international permits?

The concerns of Coalition members of the inquiry about the likely immediate costs of the carbon tax, adequacy of compensation arrangements and the ongoing impact of these factors were again shared by many who submitted their thoughts to the inquiry:

I work as a long distance truck driver and this tax will make me work even longer hours than I already do now to cover the extra costs that this tax will bring.¹⁶⁹

¹⁶⁷ Senator Simon Birmingham; Mr Blair Comley, Secretary, Department of Climate Change and Energy Efficiency, Committee Hansard, 21 September 2011, p. 21.

¹⁶⁸ Australian Government, *Securing a clean energy future: The Australian Government's Climate Change Plan*, p. 135.

¹⁶⁹ Mr Garry Wilson, unaccepted submission, received 17 September 2011, 1.28PM.

I am an ex-service veteran of the Vietnam War trying to survive on pensions. With the huge increases in the cost of living the last thing I need is another tax which will increase further the cost of living. The government says that I will be compensated to offset cost increases. I just don't believe that this will occur.¹⁷⁰

We, as self funded retiree's, have suffered huge financial losses to our Superannuation funds, due to the GFC. The cost of living is growing at an alarming rate, in electricity, food, fuel, gas and water and everyday expenses. The introduction of this new tax WILL impact on our ability to pay our bills and the stress on our already diminished Superannuation based allocated pension, and our personal wellbeing, is unconscionable.¹⁷¹

The fact is every quarter me electricity and gas bill increase. My supermarket bill is also inflating monthly. Not to mention the cost of diesel, public transport etc. The cost of living in Australia has risen rapidly without a carbon dioxide tax. What are we to expect next July? I will not, nor will any of my friends or family receive any compensation from the government. We are all very scared and uncertain about our future due to this unnecessary tax.¹⁷²

I am a 70 year old self funded retiree. I am a Bachelor of Commerce and formerly practiced as a Chartered Accountant, Certified Practising Accountant, Registered Tax Agent, and Registered Company Auditor. It will adversely affect our economy, make businesses less competitive, and put people out of work. It will increase the daily costs and expenses of all entities and people.¹⁷³

There is no doubt in my mind that increased costs produced by this tax will impact every business, family and individuals in a substantial way. Unemployment has already increased in regional Australia, and this is where the tax will have the most negative impact, due to job loss and increased transport and industry costs. Australian products will not be able to compete against imported products (as many imported goods will be cheaper as they do not have a carbon tax) and consumers will be forced to buy from overseas.¹⁷⁴

¹⁷⁰ Mr Bob Kinnane OAM, unaccepted submission, received 17 September 2011, 12.59PM.

¹⁷¹ Richard and Lynette Matthews, unaccepted submission, received 18 September 2011, 2.11PM.

¹⁷² Ms Kylie Tennyson, unaccepted submission, received 18 September 2011, 5.52PM.

¹⁷³ Mr Des Featherstone, unaccepted submission, received 20 September 2011, 4.55PM.

¹⁷⁴ Ms Rachael Calrow, unaccepted submission, received 21 September 2011, 9.03AM.

6. Small business squeeze

Small Business to be hit hard by the carbon tax

Small business, the engine room of our economy, will be hit hard by the carbon tax. Australia's 2 million small businesses are facing the lowest business profitability environment in 18 years according to the Sensis Business Index and know a carbon tax will just make a tough situation worse. Treasury, however, believes small business can just pass costs on:

Mrs GASH: I will be very quick. Small business and medium-sized enterprises will certainly feel the full flow-on effect of increases to electricity and so forth. How much compensation have you modelled in for small businesses?

Mr Comley: The first point to make is that many small businesses will actually pass on the costs that they will face. It is not a form of compensation but if you think of one which is not particularly emissions intensive in the broad scheme of things – a dry cleaner et cetera – they face little international competition and they would pass that on.¹⁷⁵

This is stark contrast to business groups who understand the market environment and conditions facing small business owners:

... the chamber unambiguously represents the views of businesses as energy users but, more particularly, the views of small and medium ranking businesses, which face the prospect of much higher energy prices and also hikes in the prices of their inputs. It is true that these business range across many sectors and have varying degrees of exposure and varying degrees of market power as well. Consequently, these entities will have limited capacity to pass on higher energy prices or higher costs of other inputs. Nor are such businesses able to adjust their processes to substantially alleviate the associated price impacts. Therefore, their earnings and competitiveness will suffer, and so will jobs and expansion opportunities.¹⁷⁶

¹⁷⁵ Ms Joanna Gash MP, Member for Gilmore; Mr Blair Comley, Secretary, Department of Climate Change and Energy Efficiency, Committee Hansard, 21 September 2011, p. 23.

¹⁷⁶ Mr Greg Evans, Australian Chamber of Commerce and Industry, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 31.

Many small businesses simply will not be able to pass on increased costs to customers:

Our organisation is in a situation where we will not be able to pass any additional costs from an increased tax on to any consumers and as such we will wear the full impact of this legislation.

... while I can see the rationale regarding the economic need to price carbon, I feel that this is not an effective measure in isolation and neither is this appropriate at this time. In fact I feel this will have a greater negative impact on Australian productivity with no gross or net impact on carbon emission whatsoever.¹⁷⁷

I am a small business owner and employ 12 people. They are mostly single and young married. Some are working and studying part time. Others are paying off homes. In my office we are all hard working, tax paying and voting Australians.

The services we provide are to larger companies and we rely on their corporate health for our work. Electricity prices are a great concern for us. My office electricity has increased from \$410 per month 2 years ago to over \$530 per month. We cannot increase our prices and have had to give substantial discounts to clients to help them through the GFC. My business and our jobs cannot survive more cost increases.¹⁷⁸

Jobs at risk, businesses crippled

While the Government likes to claim just 500 businesses will pay the carbon tax, electricity prices will be felt across the board, cost pressures will be felt by large and small business alike and the world's largest carbon tax will cost jobs:

Australian businesses have seen that, under a carbon pricing regime and associated schemes, electricity prices will probably double between now and 2015 and perhaps triple by 2020. And it is not hard for those businesses to do their own calculations as to how that might impact on their profitability. Many of our members have in fact done that exercise.¹⁷⁹

The Queensland Resources Council said that \$23 per tonne Australia will have the highest carbon price in the world. Our own

¹⁷⁷ Mr Shaun Lane, RehabCo, unaccepted submission, received 20 September 2011, 5.29PM.

¹⁷⁸ Mr Ken Taylor, Mainpack Pty Ltd, unaccepted submission, received 18 September 2011, 9.08PM.

¹⁷⁹ Mr Greg Evans, Australian Chamber of Commerce and Industry, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 36.

Queensland Tourism Industry Council said that it will increase the cost of doing business for many industries, including tourism, through the direct and indirect impact on energy costs. Qantas was quoted as saying that this tax will rip \$110 million to \$115 million from their bottom line in 2012-13. Virgin Blue were quoted as saying that higher air fares are inevitable and that international airlines do not have to pay carbon tax in their own markets. The Australian Retailers Association were quoted as saying that retailers are at the very end of the manufacturing and supply chain and cost increases along the line will ultimately be caught by them. Australia's leading meetings and events company was quoted as saying that this tax will increase the cost of holding business events in Australia. When those sorts of quotes are in a very public forum, and our organisation's role is to inform our members and our businesses, they are pretty strong quotes.¹⁸⁰

For businesses the carbon tax just adds more weight to their workload and is another example of the Labor's heavy taxing approach to Government:

It is factual that businesses constantly tell me that they are drowning in red tape, their fees and charges are going up, with local government and state government taxes and ultimately this federal tax. The general viewpoint of businesses right across the board is that they are being forced to deal with consistent increases in red tape and they feel that increased charges are being constantly put upon them. That is not my view; it is what our businesses are constantly telling us. Any new tax proposed by any level of government, whether it be federal, state or an increase in local rates, does alarm businesses.¹⁸¹

Rural Australia will also be hit by the carbon tax, not just with increased transport and business input costs, but increased power costs will hit struggling sectors hard:

... the grain sector we believe will be by far the worst affected. Also the dairy sector, because some of our dairy farmers have very high power usages growing green feed during very long summer periods. Some of those dairy farmers will be well and truly affected by increased power costs.¹⁸²

¹⁸⁰ Ms Mary Carroll, Capricorn Enterprise, *Proof Committee Hansard*, Sydney, 28 September 2011, pp. 37-38.

¹⁸¹ Ms Mary Carroll, Capricorn Enterprise, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 38.

¹⁸² Mr Michael Norton, WA Farmers Federation, *Proof Committee Hansard*, Sydney, 28 September

As the owner operator of an engineering business located in rural Australia this tax is going to significantly increase my operating costs as well as raw material costs and is very likely I will have to reduce staff in order to compensate. Our company employs 23 local people and our weekly wages contributes a significant amount to the local economy. The increases to us will come by way of significantly increased electricity costs, increased steel and aluminium prices, increases in poly tank prices, and possibly higher wages demands so that staff can also offset the increased household costs.¹⁸³

The carbon tax is a direct threat to jobs as input costs rise and consumers, faced with price rises across the board, have less disposable income:

As an example, take my daughter and son in law, who own and run two small businesses employing up to 60 staff, they will be adversely affected should such a tax be imposed. ... In the case of small businesses already reeling from floods, cyclones and similar natural disasters the only way to make ends meet will be to lay off staff. This will be a direct result of this tax. ... The only beneficiaries of this tax will be this country's competitors. Countries such as China, Indonesia, Malaya, India, the US and the Arab Nations will be making huge profits at the expense of our own industries.¹⁸⁴

As a small business owner involved in the retail industry, the effects of the carbon tax, that has not been introduced as yet, are already being felt. We run a good business but that does not help when people are worried about basic life essentials becoming more expensive.¹⁸⁵

As a Caravan park owner ... It will mean that we will be forced to increase our fees & charges which ultimately will hurt our permanent residents & also force our fees up for tourists increasing the risk of reduced occupancy of the park. Our tourists are mainly Grey Nomads who are already feeling the stress because of the worldwide financial turmoil in regards to their investments, this has already reduced our occupancy this year.¹⁸⁶

2011, p. 55.

¹⁸³ Mr Barry Sharp, AAA Engineering Technologies Pty Ltd, unaccepted submission, received 21 September 2011, 8.03AM.

¹⁸⁴ Mr David Melandri, unaccepted submission, received 18 September 2011, 1.49PM.

¹⁸⁵ Ms Michele Clifton, unaccepted submission, received 22 September 2011, 8.55AM.

¹⁸⁶ Mr Jaeson Brache, unaccepted submission, received 18 September 2011, 1.52PM.

I am a small business owner and can see that as a direct result of this tax that my costs will significantly increase - every time I switch my computers on or get into my car to see a client I will be paying this tax. I do not believe that I will be "compensated" for these additional costs and will be left with the option of absorbing them or passing them on - I along with thousands of other small businesses will be passing them on and I would suggest that whatever modelling may have been done does not reflect this cost to Australia.¹⁸⁷

Small businesses such as my daughter's dog grooming salon (which has been running successfully for just on 21 years) are struggling with viability at the moment and can only look forward to a further plunge in incomes when customers cannot afford such as small thing as having their pet dog washed and clipped!¹⁸⁸

For many businesses, the carbon tax may be the final straw:

I am the part owner of a micro business which is trying to export Australian owned and made goods to various parts of the world. Over the years we have built up relationship in Asia, Europe, North America and New Zealand.

... If a carbon tax legislation is enacted it will increase the manufacturing prices which will in turn will be passed onto us in goods what we are trying - struggling - to export and might just will mean for some of our customers that they will either try to find an alternative and cheaper supplier or cutting back on orders.¹⁸⁹

I am a director of a small Australian manufacturing company & we are already down to break-even margins competing against imports, many of these imports being subsidised by overseas Governments. Any additional cost burden placed on our business will certainly result in a loss of sales, which unfortunately will follow onto a loss of jobs & possible closing of our company.

We are not a big company & it will not hit the news if 30 more people no longer have a job, but there are lots of small businesses in the Australian market that are just like my company.¹⁹⁰

¹⁸⁷ Mr Tony Jordan, Tony Jordan Insurances, unaccepted submission, received 19 September 2011, 12.51PM.

¹⁸⁸ Ms Helen Scobie, unaccepted submission, received 18 September 2011, 1.53PM.

¹⁸⁹ Mr Tibor Bode, unaccepted submission, received 19 September 2011, 10.26PM.

¹⁹⁰ Mr Bob Wilson, unaccepted submission, received 19 September 2011, 5.37PM.

We own a small printing business and since 2008 we have been struggling to keep the doors open due to the GFC. We have been in business for 18 successful years but are now in a position, if the Carbon Tax comes in, and everyone loses any more confidence in spending, we will lose our business, our house and our livelihood.

...

We will suffer significant price increases in purchasing from the suppliers, paper, plates, ink, bindery etc. ...

We also don't want to destroy our employees' livelihoods, they have house loans and young families to support. They are like our family, all working hard to survive these very tough times together.¹⁹¹

The Government claims many small businesses are not trade exposed in the manner that some of the industries receiving compensation are. The reality is many actually are and this carbon tax won't just send many big businesses off shore, but small businesses as well. That's investment, jobs and emissions being shipped overseas where there is no carbon tax and where emissions may indeed be greater than they were here:

My major objection to it is that it will cost me and my business about \$100-\$200 a week for no real reduction in carbon emissions.

Already I have done things with installing solar (\$45,000 approx) and gas services (\$5,000), insulation (\$5,000) and other energy reduction matters to reduce my emissions but there seems to be no real compensation for these types of action "going forward" ...

What we seem to be doing or setting up to do is push pollution off shore and make the same things at worse pollution rates!¹⁹²

I ... object strongly to a carbon tax as our family business which recycles waste plastic will face costs that we cannot afford or are unable to pass on. Plastic recycling uses vast amounts of electricity and utilizes the heavy transport industry extensively and therefore will feel the full brunt of this tax. We are an environmentally beneficial business who is not compensated by government in any way and will have no choice but to take our business offshore in order to compete with imported resin if this tax goes through.¹⁹³

¹⁹¹ Ms Andrea Humber, unaccepted submission, received 18 September 2011, 2.01PM.

¹⁹² Mr Rob Fitzgerald, Harriett's Cottage Accommodation, unaccepted submission, received 18 September 2011, 1.53PM.

¹⁹³ Mr Andrew Odgers, EcoPolymers, unaccepted submission, received 18 September 2011, 6.40PM.

It is clear that the carbon tax will come at significant cost to small business at a time businesses can least afford it. Many small businesses operate on tight margins and increased electricity prices, transport costs and reduced consumer spending power will drive many to the wall.

While all sides of politics want to lower Australia's carbon emissions, the Labor-Greens plan to pull the shutters down on small business is not the way to go about it.

7. Communities cop the cost

The Government's legislation places a burden on communities around Australia without adequate, or in some cases any, compensation. These include farming and other regional communities, the community welfare sector, and effectively all Australians through an impost on local government.

Copping it at the local level

Local Government councils across Australia expect to suffer significant cost impacts, including through costs associated with landfill waste disposal and through reduced capacity of ratepayers to fund council core services.

DCCEE has addressed thresholds for landfill facilities.

A local government that has a waste facility that exceeds the threshold – 25,000 tonnes – would be liable for that landfill facility. If it had a facility of more than 10,000 tonnes within a prescribed distance from a large landfill facility, one greater than 25,000 tonnes, then that facility would also be liable. Local councils are liable through landfills. They would face other costs – electricity costs or other fuel costs – but as liable entities they would be drawn in through their tips.¹⁹⁴

Councils indicate they are yet to be provided with any certainty as to what costs associated with landfill will be incurred.

These concerns and ongoing uncertainty were highlighted by the Council of Mayors (SEQ) which claims to represent a region (South East Queensland) that is home to three million people, or one in seven Australians.

While waste deposited prior to 1 July 2012 will not be liable under the proposed pricing mechanisms, it is unclear as to whether waste deposited each year after this date will be liable for emission for that year only or on an ongoing basis.

Detail is to be included in the regulations however immediate clarification on a council's liability is sought as we believe this could have a significant financial impact on a council. The methodology for determining landfill gas emissions and

¹⁹⁴ Dr Steven Kennedy, Department of Climate Change and Energy Efficiency, *Proof Committee Hansard*, Canberra, 21 September 2011, p. 14.

wastewater treatment plant methane emissions need to be clarified.

For example, Ipswich City Council has been advised by waste contractor Veolia that the landfill price is likely to increase by around \$22 per tonne for municipal and \$20 per tonne for commercial and industrial waste from 1 July 2012.¹⁹⁵

The absence of detail about landfill cost impacts was also raised by the organisation representing councils nationally, the Australian Local Government Association, through Chief Executive Adrian Beresford-Wylie.

... it is not entirely clear to us how many landfills and how many councils will be impacted on by the scheme, since the details of the scheme have not been worked out. If it is going to cost several hundred thousand dollars for a council to put in place a system, it is not every council which will be able to find several hundred thousand dollars to put in place a flaring system. In terms of the actual number of councils and council landfills that are going to be covered by any scheme, we do not have the detail of the scheme at the present time, and I think it is jumping to conclusions to say that all councils or the majority of councils will be able to ameliorate or abate their exposure.¹⁹⁶

Councils and landfill owners have sought a carbon price moratorium of at least three years:

Council of Mayors (SEQ) supports and reiterates the position of local government in relation to waste emission liability as outlined in submissions made by the Australian Local Government Association. It also refers the committee to submissions on this topic made by the Australian Landfill Owners Association which calls for a three year moratorium on the introduction of a carbon price to allow time for local government to clarify measurement methodology, become familiar with and put in place systems to meet reporting requirements, and initiate gas collection and flaring where this does not exist at landfills.¹⁹⁷

Shoalhaven City Council addressed uncertainty surrounding landfill, as well as other forecast cost impacts it faces.

¹⁹⁵ Mr John Cherry, Council of Mayors (SEQ), Submission 68, p. 2.

¹⁹⁶ Mr Adrian Beresford-Wylie, Australian Local Government Association, *Proof Committee Hansard*, Melbourne, 27 September 2011, p. 35.

¹⁹⁷ Mr John Cherry, Council of Mayors (SEQ), Submission 68, p. 3.

We are a largish local government organisation. To give you a context, our budget is \$180 million a year. We service a population of about 100,000 people that grows to 300,000 in the peak of summer. We have been reporting for some time, and we reckon that our greenhouse gas emissions, as reported, are around 29,000 tonnes per annum, excluding our landfill. Our landfill is getting close to 50,000 tonnes in gross emissions per annum. That is relevant in terms of this 25,000-tonne threshold. However, we do extract gas from our landfill, and that brings us down to 13,000 tonnes per annum. That is even more relevant to the 10,000-tonne threshold that we will come to.

I will cut to some of the cost impacts that we have forecast. We are using the numbers that are around the place and seem not to be disputed in terms of most of the flow-on costs. We think our energy costs are going to increase as an indirect cost by something in the order of \$285,000 per annum. We think our fuel costs are going to increase by \$9,000 in terms of nontransport and, in that 2014 scenario, another \$25,000 on our heavy vehicles. As an organisation that does lots of physical work, we have 70-plus vehicles that will be in that heavy vehicle category. They consume about 350,000 litres a year.

When we look at our waste operation, the sooner we can get clarity on what is in and what is out and how we are counting things, the more helpful it will be. A lot of things are unclear.¹⁹⁸

Within the constraints imposed by this uncertainty, Shoalhaven raised a possible amendment to address their circumstance.

... if we were to ask for something to be different, it would be that issue of the 10,000-tonne threshold within whatever the distance is. We do not even know what it is, but we are assuming – because of Wollongong and Shellharbour, who operate big landfills – that we will have a 10,000-tonne threshold instead of 25,000. For us, it would be really helpful if it were just left at 25,000 tonnes. If that 10,000-tonne threshold, which is supposedly to stop people allegedly moving waste around from one facility to another, were not there from a legislative point of view then that would be a significant upside for our council in particular.¹⁹⁹

¹⁹⁸ Mr Rob Donaldson, Shoalhaven City Council, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 43.

¹⁹⁹ Mr Rob Donaldson, Shoalhaven City Council, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 45.

The capacity of ratepayers was canvassed by the Australian Local Government Association.

... many councils look at their ability to raise rates and they do take account of the capacity of communities to pay. This is the reality. The community is not an endless sink from which money can be drawn and councils are acutely aware of the restrictions and limitations on individual communities to actually pay rates. Those communities and individuals in those communities pay taxes at the state and the federal level as well.²⁰⁰

The ALGA also highlighted research into the expected impact on ratepayers in Victoria and, by extension, across Australia.

The Municipal Association of Victoria did some figures on what they considered to be the likely impact on councils from the introduction of a carbon price. Most councils thought that the increased costs would lead to a likely need to increase rates by somewhere between one per cent and five per cent. If we were to extrapolate nationally then we would be talking about costs somewhere in the order of \$300 million.²⁰¹

The likely need to raise council rates was confirmed by the Assistant General Manager of Shoalhaven City Council, Mr Rob Donaldson.

Mr CHRISTENSEN: There are some things that you as a council will not be able to change. There will be cost impacts. You are saying that if those are not being fully compensated, the costs will have to be passed on to ratepayers?

Mr Donaldson: Yes.²⁰²

Evidence was provided to the committee of the range and breadth of services and expenditure expected to feel the effects of a carbon tax.

Construction/local infrastructure:

It is fair to say that construction costs do generally go up by more than CPI. There will no doubt be a cost; but I cannot tell you what the actual cost is going to be, although it is fair to say that we will

²⁰⁰ Mr Adrian Beresford-Wylie, Australian Local Government Association, *Proof Committee Hansard*, Melbourne, 27 September 2011, p. 36.

²⁰¹ Mr Adrian Beresford-Wylie, Australian Local Government Association, *Proof Committee Hansard*, Melbourne, 27 September 2011, p. 34.

²⁰² Mr Rob Donaldson, Shoalhaven City Council, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 46.

probably bear the same costs that are borne by the state governments with their road materials as well.²⁰³

Swimming pools and other civic facilities:

Most of our consumption is in the major civic buildings, the one or two large leisure centre facilities that have swimming pools, heating and so on, and our water treatment facilities.²⁰⁴

One of our major facilities, the Bay and Basin Leisure Centre, has a very substantial photovoltaic system and has been looking at photovoltaic cells and rooftop water-heating mechanisms. Probably between \$200,000 and a quarter of \$1 million worth of capital has gone into that. We think that will take off about five per cent of the energy bill for that facility.²⁰⁵

Copping it in the regions

It is clear from the inquiry that businesses in regional areas fear the consequences of the Government's legislation, and specifically the costs and ramifications of the carbon tax it would implement.

Capricorn Enterprise is both a Regional Tourism Organisation and Regional Development Organisation and has a diverse membership making it well placed to comment on the views of businesses involved in a range of industries and enterprises.

Our organisation is a membership based organisation. We have major corporate partners, whether they be mining firms, contractors to mining companies or service sector industries to the resources sector. Right down through to small business, we represent retail, health, education, tourism, agriculture – a whole raft of industries. It would be fair to say that, certainly in Central Queensland and the area where we live, the general viewpoint of a lot of businesses is that at the moment they feel they are suffering a lot of red tape anyway. They feel generally that this is another tax that is going to affect them. We are, can I say, an apolitical organisation. This is a very contentious issue up here and we try

²⁰³ Mr Adrian Beresford-Wylie, Australian Local Government Association, *Proof Committee Hansard*, Melbourne, 27 September 2011, p. 35.

²⁰⁴ Mr Rob Donaldson, Shoalhaven City Council, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 46.

²⁰⁵ Mr Rob Donaldson, Shoalhaven City Council, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 46.

and be fair and reasonable in our comments about such issues. But many of our businesses, small right through to large industry, have expressed quite openly in private and public forums their concern about this tax.²⁰⁶

Among specific and particular concerns to come to the attention of Capricorn Enterprise are expected impacts on the transport sector, upon which the vast majority of other businesses rely in some way.

I am getting a lot of representations from transport to say that the impact on transport will be significant. Rocky's Own Transport, which are now an intrastate group, have made various representations and have done a lot of modelling. As I understand it, they are a lead agency in this. I have only just come from another meeting where they presented. It is transport that will see an impact that will impact across all sectors. Of course, you have the energy generators and then you have the mines that actually have emissions. So it could be a tax that will have a very significant economic impact on Central Queensland.²⁰⁷

Transport is also among several specific concerns to farmers, as outlined by the WA Farmers Federation, which is opposed to the legislation.

WA Farmers Federation does not support the carbon tax proposal. Our reasons are pretty straightforward. From the evidence that has been given to us, we believe that financially we will be worse off under a carbon tax. ... Farmers are very much at the end of the line and we believe a lot of the costs from processing, from retailing and from transport will gravitate back as increased costs and charges to growers.²⁰⁸

Transport issues associated with the carbon tax will hit regional areas in numerous ways, especially those that impact on aviation, which is so critical for tourism into regions, as well as regional access to major centres. Qantas made it clear that the significant costs associated with aviation will be passed straight through to consumers:

Domestic airlines will be exposed to the full starting carbon price of \$23 per tonne through an increase in aviation fuel excise from

²⁰⁶ Ms Mary Carroll, Capricorn Enterprise, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 37.

²⁰⁷ Mr Neil Lethlean, Capricorn Enterprise, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 42.

²⁰⁸ Mr Michael Norton, WA Farmers Federation, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 54.

July 2012 and will not have access to transitional assistance or compensation arrangements. It is estimated that the cost impact on the Qantas Group will be approximately \$110-115 million in the financial year 2012/13.

In the context of the significant commercial and structural challenges facing the global aviation industry, the Qantas Group will be unable to absorb the additional costs associated with the carbon price. There will be a full pass-through to customers... ²⁰⁹

While transport would be one factor they are worried about, Australia's cane farmers expressed their concerns about the impact of the tax throughout their value chain:

The carbon tax will result in increased and embedded costs in the sugar production value chain, resulting in a decrease in the profits of cane farming businesses which have been under extreme pressure over the past decade. ²¹⁰

Their concerns were echoed by the National Farmers' Federation, who emphasised the impact on international competitiveness, a particularly important issue given the global market many of Australia's primary producers operate within:

These costs will erode the competitiveness of the agricultural industry in the domestic and international markets on which we depend. As the recent Productivity Commission review highlighted, across the world, countries are developing climate policies that recognise the importance of agriculture and deliberately prevent any additional costs being added into their farmers businesses. ²¹¹

Organisations representing the horticulture industry or fruit and vegetable growers point to their high input costs, especially electricity, and argue the tax will squeeze already tight margins further:

... the cost of electricity will increase substantially despite the concessions. Growers with on-farm packing sheds and large refrigeration units, essential for the delivery of fresh and healthy food to market, are heavy users of electricity. In some cases, electricity consumption can exceed \$20,000 per week. The starting price of \$23 per tonne of CO₂-e will result in an increase in electricity costs of approximately 2.5c per kilowatt-hour. For some

²⁰⁹ Qantas Airways Limited, *Submission 17*, p. 2.

²¹⁰ Australian Cane Farmers, *Submission 3*, p. 1.

²¹¹ National Farmers' Federation, *Submission 63*, p. 5.

growers, the introduction of a carbon price will lead to increases in electricity costs of up to several thousand dollars per week. Other energy intensive inputs, such as fertiliser and chemicals, will also increase in cost. In addition, freight costs will increase from July 2014 when the exemption for the heavy transport vehicles is removed.²¹²

...many farming enterprises are already battling to be profitable as the profit margins for growers are very small. Effectively, the costs of farming inputs have continued to increase yet the average net return for grower's produce has increased very, if at all over the past decade.²¹³

Dairy farmers presented similar concerns to those expressed by the horticulture sector, highlighting modelling to demonstrate their particular exposure to the price shocks of the new tax:

Importantly dairy farming appears to be more impacted by the new tax arrangements than even other parts of agriculture. The AFI estimated dairy farm incomes could fall by 7 - 8% in 2013 under the announced tax package (an impact almost double that facing other agricultural sectors) ... Based on ABARES estimates this suggests dairy farmers face an average per farm cost increase of \$1,400 per annum across Australia when the new carbon tax comes into force. Farms involved in irrigated dairying operations are likely to face the highest cost increase. In some regions this cost increase could be much higher. ABARES estimates Tasmanian dairy farms have average electricity expenditure in 2011 of \$37,000, suggesting increases for farms in this state of close to \$4,000 per year under the new tax.²¹⁴

It is clear to Coalition members that, despite the language from Labor about agriculture being excluded, there will be a significant cost impact on the agricultural sector, all while potentially positive and transforming opportunities appear to be overlooked by Labor's punitive policy, such the need to:

... lift organic matter management and compost use into mainstream horticultural and agricultural practices. A key first step is to quantify soil carbon sequestration benefits from use of external organic residues as soil amendments. Over 150 leading

²¹² Growcom, Submission 34, p. 4.

²¹³ Bundaberg Fruit & Vegetable Growers, *Submission 10*, p. 1.

²¹⁴ Australian Dairy Industry Council, *Submission 44*, pp. 2-3.

researchers and practitioners from Australia delivered this and other messages at the 2011 International Symposium.²¹⁵

Copping it at the expense of community welfare

UnitingCare Australia is a major player in the community welfare sector, and well qualified to comment on expected cost impacts.

UnitingCare Australia is the national body for the UnitingCare network. We deliver social services right across the life course – for example, children's services, childcare, employment, disability, housing, emergency relief and financial counselling. We deliver some hospital service, a lot of aged-care – residential and community – and family services. I would have missed a heap. Anything you can imagine we are delivering it in a community somewhere across the country. We have about 1,500 delivery sites and 35,000 staff. ... I speak with knowledge about my own network, but I think you can extrapolate this to the broader community sector. In the same way we are having a conversation in Australia about trade-exposed industries, I think there are some exposed parts of the community sector, and they are the parts of the community sector that rely heavily on electricity, water and fuel. That is anything residential. Our disability services and our aged-care services use not just a lot of electricity but a lot of water in a lot of what we do in caring for and supporting residents. It is not unusual for our services delivering particularly community based aged care but also other services that involve lots of driving to be very exposed in terms of petrol prices. This is in a context where electricity costs are increasing at between 11 and 17 per cent a year anyway, so our services are being squeezed and there will be a cost impact on our services.²¹⁶

UnitingCare Australia have highlighted an expected shortfall between available compensation and expected cost impacts on the many services they provide.

In terms of the package, there are two elements that will impact our services. One is clearly the household compensation package. That will make a big difference in some of our residential services where there is a user-pays component, as in residential care. That will make a difference. It will not make all the difference and we

²¹⁵ Compost Australia, *Submission 53*, p. 1.

²¹⁶ Ms Lin Hatfield-Dodds, UnitingCare Australia, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 58.

do not anticipate it will close all of the gap. There is the community funding bucket – I cannot recall what it is called – of about \$300 million from memory that you can apply for.²¹⁷

DCCEE Deputy Secretary Dr Steven Kennedy confirmed to the inquiry that the \$330 million Low Carbon Communities program is the sole avenue for carbon tax compensation for the charity sector:

Mr CHRISTENSEN: I want to ask about compensation for the punitive impacts it might have on not-for-profit organisations and charitable groups. That is all contained in the Low Carbon Communities program; is that correct?

Dr Kennedy: Yes, any direct assistance to those organisations is.²¹⁸

However, it is also clear from evidence to the inquiry that seeking access to this centrally administered grants program will add to an organisation's bureaucratic workload.

Low Carbon Communities is a grants and outlays program.²¹⁹

We spend a disproportionate amount of our time applying for funding and then acquitting and complying with funding.²²⁰

Some charitable organisations, such as the Royal Flying Doctor Service, will face particular imposts as a result of the carbon tax. While the government has claimed it will compensate them, it will still leave them reliant on yet another rebate program, with all of the compliance and paperwork issues that come with that.

On the issue you raised around support for services such as the Royal Flying Doctor Service and those sorts of issues, at the release of the legislation the government announced a full stream of the Low Carbon Communities program. This stream is to be known as the Charities Maritime and Aviation Support Program. It will offer a rebate for the carbon price impact on essential maritime and aviation fuels used by organisations such as air and sea rescue services.²²¹

²¹⁷ Ms Lin Hatfield-Dodds, UnitingCare Australia, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 59.

²¹⁸ *Proof Committee Hansard*, Canberra, 21 September 2011, p. 18.

²¹⁹ Mr Blair Comley, Department of Climate Change and Energy Efficiency, *Proof Committee Hansard*, Canberra, 21 September 2011, p. 18.

²²⁰ Ms Lin Hatfield-Dodds, UnitingCare Australia, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 63.

²²¹ Dr Steven Kennedy, Deputy Secretary, Department of Climate Change and Energy Efficiency, *Committee Hansard*, 21 September 2011, p. 19.

Inevitably, in this space some services will be negatively affected. Coalition members of the inquiry wonder about the impact on Angel Flight, as an example, where people donate their own time, planes and fuel to provide a service to charity. It would seem that these individuals will still face the full impact of the increase in aviation fuel costs, unless each volunteer is to be eligible for the rebates announced.

For those where a specific program component is not established it is clear that a great number of organisations, not just those in the charitable or welfare sector, will be competing for a limited pool of available compensation.

Mr CHRISTENSEN: I want to go back to the Low Carbon Communities program ... out of the \$330 million, only \$200 million will go towards not-for-profit organisations and local governments. That includes everything from a local soccer club through to an organisation like Red Cross. That amounts to something in excess of 600,000 organisations that would be vying for that fund over a six-year period, after which it would then stop. So I just wanted to know if your peak bodies have that understanding that this is a competitive process and there is no guarantee that you are actually going to get that compensation; and, if you did divide one number by the other, you would find the compensation would be very low indeed, and it stops in six years time – five years, actually.

Ms Hatfield Dodds: We are certainly aware of that...²²²

DCCEE provided evidence that the Government expects the shortfall between available compensation and expected cost impacts on community organisations – as identified above by UnitingCare Australia – is expected to be met by members of the community being compensated for the carbon tax to such a great extent they are going to increase their donations to charities or charities passing on increased costs to service recipients.

... the general compensation package that goes to individuals and the way effectively the Treasury models this is they are purchased services by people, so their income capacity in order to make donations is higher than it otherwise would be.²²³

Generous though Australians are, Coalition members of this committee regard with great scepticism the Government's apparent optimism in a greater reliance on

²²² Ms Lin Hatfield-Dodds, UnitingCare Australia, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 63.

²²³ Dr Steven Kennedy, Deputy Secretary, Department of Climate Change and Energy Efficiency, *Committee Hansard*, 21 September 2011, p. 18.

charitable donations to bridge funding gaps created by the carbon tax or a greater capacity of recipients to pay for services, particularly given – as canvassed elsewhere in this report – that even with the Government's compensation, millions of Australian households are still forecast to be worse off under the carbon tax.

8. Key industries compromised

This section looks at the key concerns expressed by some of Australia's key industries, particularly but not exclusively those who are emissions intensive trade exposed industries, which are likely to be hardest hit by the carbon tax.

An underlying concern across these industries, and the wider business community as well as households, is the carbon tax's impact in driving up the cost of electricity, especially coal-fired electricity generation. Even Treasury conceded uncertainty surrounds some of the impacts on this sector:

Senator CORMANN: I refer you to page 3 of the updated modelling, which says:

Similarly, the modelling does not include the planned closure of 2,000 MW of electricity generation capacity of the most emission-intensive power plants, as this requires assumptions about which generators close under the tender process and when they close.

Given that many of these emissions-intensive power plants produce very cheap electricity, would the closure of these plants put further upward pressure on electricity prices?

Ms Quinn: It would depend on the timing of when the generators were slated for closure and it would depend on how the system adjusted to putting a price on carbon.

Senator CORMANN: But can you envisage any circumstances where closure, when it does occur, would not lead to further increases in electricity prices?

Ms Quinn: The electricity market is quite a complex structure. The price of electricity is set by the price of the marginal generator, so it would depend.²²⁴

The Energy Supply Association indicated that their sector will account for most of the emissions permits market, stating that they will "be 60 per cent of the scheme in its entirety, and we will probably be at least 90 per cent, if not more than that, of the auction market".²²⁵ From their research the costs of the carbon tax are significant:

²²⁴ Ms Meghan Quinn, Treasury, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 2.

²²⁵ Ms Clare Savage, Acting Chief Executive officer, Energy Supply Association of Australia, *Committee Hansard*, 27 September 2011, p. 8.

The ACIL Tasman study did find that for coal fired generation the cost of carbon would be the single biggest input cost. In fact, at a carbon price of just \$25 a tonne, it would increase total operating costs for a coal fired generator by between 100 per cent.²²⁶

The committee received substantial evidence about the issues surrounding energy security and the carbon price, especially regarding the stranding of assets and lack of compensation for the loss in asset value:

In terms of the implications for energy security we are concerned about the level of assistance to coal fired generators. There will not be a single dollar of compensation paid to black coal fired generators under this scheme. From our perspective that does send a worrying message to future investors in the electricity supply system.²²⁷

Government modelling during the CPRS found that over the first 10 years black coal-fired generators would suffer asset value losses of \$5 billion to \$6 billion (real 2008-09 dollars)... The industry calls on the Government to release the details underpinning the estimates for the reduction in profitability of coal-fired generators as soon as possible. Figures presented for losses in profitability under the CPRS and CEF only cover the first ten years of the scheme, while the profitability of generators will continue to decline beyond this period as the carbon price increases and generators are prematurely retired. Asset value losses will require government owners to inject further equity to their companies while for the private sector, in addition to the likely equity call, refinancing will be made very difficult as their commercial fundamentals are challenged.²²⁸

... the legislation needs to adequately address the stranding of coal-fired generation assets. Just eight or nine out of the 31 baseload coal-fired power stations will receive assistance. These are the power stations that the community depends on to deliver energy security that we take for granted. Even fewer will be eligible for closure payments. This could only be rectified by increasing the quantum of assistance that will be provided to coal-fired generators and to address the impacts on existing

²²⁶ Mr Temay Rigzin, Acting Policy Development Manager, Energy Supply Association of Australia, Committee Hansard, 27 September 2011, p. 9.

²²⁷ Ms Clare Savage, Acting Chief Executive officer, Energy Supply Association of Australia, Committee Hansard, 27 September 2011, p. 10.

²²⁸ Energy Supply Association of Australia, *Submission 1*, p. 6.

investments and minimise the costs of future energy requirements.²²⁹

... not all electricity generators that bear a significant asset value loss are eligible for the scheme. It is estimated from Treasury modelling that NSW and Queensland coal-fired generators that will not receive any compensation could suffer a combined loss of \$5-6 billion in asset value.²³⁰

Evidence was also presented that the timing of payments required of electricity generators under this model will likely add to the price impacts on electricity services, potentially up to 15 per cent for large users:

I would like to focus on the second issue I mentioned, which is working capital and permit auction design. Electricity contracting, which is usually at least three to five years in advance, is a critical feature of the national electricity market, to manage risk and uncertainty around potentially volatile spot prices. As carbon units will be a significant cost in energy production going forward, the energy industry will need to secure prices for emission permits years before it can commit to sell electricity or gas, both in the current year and in future years under forward contracts.

As set out in the government's own investment reference group report, generators will need to hold positions well in excess of \$10 billion – more than \$4 billion worth of units to comply with current-year obligations and positions on a further \$6 billion worth of units to support forward electricity contracting. Generators will not have the cash flows to settle permit contracts years in advance of when they receive their revenues and when the emission liability actually occurs. Generators may be unable to lock in a future price for carbon and will be therefore unwilling to continue to offer fixed-price forward electricity contracts.

ESAA has contracted ACIL Tasman to undertake a quantitative study of the likely impact of the reduced levels of electricity contracting on electricity prices, and the results are striking. Even just a five per cent reduction in electricity contracting could result in at least a 10 per cent increase in a single year for small end users. That could be up to a 15 per cent increase for large users. This is the same level of price increase the Treasury forecasts from

²²⁹ Ms Clare Savage, Acting Chief Executive officer, Energy Supply Association of Australia, Committee Hansard, 27 September 2011, p. 7.

²³⁰ Australian Industry Greenhouse Network (AIGN), *Submission 33*, p. 4.

the carbon price itself, and we could see that in addition to the carbon price in just a single year. If contracting were to unwind further than that, prices could increase by even double or four times this. The market is also forecast to be significantly more volatile.²³¹

Currently, probably about 80 to 85 per cent of energy in the electricity market is contracted. The reason for that is the spot market can be quite volatile. So it provides almost a hedge arrangement in the way the wholesale market operates. We asked them to reduce contracting by five per cent. Under that scenario, retail electricity prices increased in a single year by around 10 per cent for small users and about 15 per cent for large users. We asked them to do that because our view is that if you are forced to pay for your permits up-front, and certainly the government's proposal through this legislation is that they will seek their cash up-front and in the door for permits that are three to five years in advance, generators will have to back away from some of their electricity contracting because they will not be able to afford to lock in a price for carbon, which would make them unable to lock in a price for electricity.²³²

'Compensated forever' does not read well when an \$18 billion impost has added to it a \$1.7 billion increase in fuel tax, to make up about \$18 billion, and has subtracted from it \$1.3 billion to leave an impost of \$16.9 billion. One has difficulty with the idea that the industry is being assisted.²³³

As is canvassed elsewhere in this report, the impact of electricity prices is all pervasive throughout the economy. This point was highlighted by the Australian Chamber of Commerce and Industry:

Our members in different sectors, such as plastics and chemicals, food processing and the metal sector, have actually done our own work where we actually used the Treasury's electricity price impact, which we believe is understated, and fed that through our

²³¹ Ms Clare Savage, Acting Chief Executive officer, Energy Supply Association of Australia, Committee Hansard, 27 September 2011, pp. 7-8.

²³² Ms Clare Savage, Acting Chief Executive officer, Energy Supply Association of Australia, Committee Hansard, 27 September 2011, p. 9.

²³³ Mr John Harry Pegler, Chairman, Australian Coal Association, Committee Hansard, 27 September 2011, p. 68.

own financial models. It shows a substantial fall in the profitability of those particular enterprises.²³⁴

It won't just be coal-fired power generation that will be hit by the carbon tax, but coal mining itself will also bear the cost. The importance of coal mining as an export industry was brought to the attention of the inquiry:

Black coal is Australia's second largest export, (expected to earn \$55 billion in 2011-12) and underpins the security, reliability and comparative low cost of Australia's electricity supply. Our industry is a significant employer with more than 40 000 direct employees and a further 100 000 indirectly employed in companies, many of them SME's in regional Australia.²³⁵

However, the inquiry then received extensive evidence regarding the potential for reduced competitiveness within this key export sector:

Our industry notes that the carbon tax is an \$18 billion impost on the coal industry and it means that the industry ends up paying, under this particular construct, for about two-thirds of the estimated \$25 billion worth of wealth transfer to households, renewables and agriculture. The specific exclusion of the black coal industry from qualifying for trade exposed industry status is an unjust and unfair treatment of the coal industry. That in particular is a fundamental flaw that we see in the bills which the committee is considering. The primary issue is that the carbon tax will undermine the industry's international competitiveness and that, whilst it is important to do things to make a difference, it is important not to do things that do not make a difference. So to take steps that simply take the country and its wellbeing backwards does not strike us as a useful way to go forward.²³⁶

The industry has serious concerns about the efficiency, fairness and competitiveness impacts of the CEF legislation. The net impact of the proposed carbon tax will be to crimp coal industry jobs and investment. Because this is not a cost our coal competitors will face the outcome will have minimal impact on global emissions as coal production, and the associated jobs, will simply move offshore.²³⁷

²³⁴ Mr Greg Evans, Australian Chamber of Commerce and Industry, *Proof Committee Hansard*, Canberra, 26 September 2011, p.33.

²³⁵ Australian Coal Association, *Submission 58*, p. 1.

²³⁶ Mr John Harry Pegler, Chairman, Australian Coal Association, *Committee Hansard*, 27 September 2011, p. 64.

²³⁷ Australian Coal Association, *Submission 58*, p. 1.

The globally competitive nature of the industry was identified, along with those countries who are key trading competitors to Australia but do not have a comparable carbon tax in place:

Senator MILNE: Okay, but what about the externality for the coal industry to be priced? The fugitive emissions are an externality of coalmining, are they not? Should they not be included in the price?

Mr Pegler: Only if you want to make sure that we give away the competitive position of Australian coal to other sources in Indonesia, South Africa, Mongolia, Mozambique, Colombia and so on and so on and so on, where none of those things are happening.²³⁸

The industry identified that, despite claims of energy transformation taking place in other countries, the demand for coal is expected to be strong and, if Australia loses its competitive position, the export dollars and emissions (potentially even higher emissions) will shift elsewhere:

Senator CORMANN: Do you expect global demand for coal to reduce?

Mr Pegler: No, I do not.

Senator CORMANN: If it does not, as you say, but Australian coal becomes less competitive internationally because of a carbon price in Australia, outside an appropriate comprehensive global framework, and if your competitors overseas take market share from you and if, as you say, global demand for coal does not reduce, what will that do to global emissions?

Mr Pegler: Under that sort of scenario, it is quite possible for there to be no impact on global emissions.

Senator CORMANN: How realistic is that scenario?

Mr Pegler: You could say that, if other countries do not take steps, it will swamp the impact of the things that happen in Australia.

Senator CORMANN: Do you see your competitors around the world taking steps to impose a carbon tax to a level similar to what is imposed in Australia?

Mr Pegler: No, I do not see our competitors around the world taking on board a structure similar to the one being put forward in Australia.

²³⁸ Senator Christine Milne; Mr John Harry Pegler, Chairman, Australian Coal Association, Committee Hansard, 27 September 2011, p. 66.

Senator CORMANN: To summarise – and I only get a short period of time – if you say to us that global demand for coal will stay the same –

Mr Pegler: Increase, in fact.

Senator CORMANN: Increase, in fact. Global demand for coal will increase. A price on carbon in Australia outside an appropriately comprehensive global agreement will make us less competitive –

Mr Pegler: Correct.

Senator CORMANN: than suppliers in other parts of the world. All we are really doing is shifting emissions to other parts of the world, arguably, to areas where there will be higher emissions rather than reducing global emissions. Is that not a fair comment?

Mr Pegler: That is absolutely correct.²³⁹

Industry argued that research conducted by Treasury for the Government backed up its claims:

the best single piece of research was done by Treasury. The 2008 modelling exercise projected that the then CPRS would reduce investment in coalmining by 13 per cent. It was not the Minerals Council or the Coal Association producing this work; the Australian government Treasury produced an assessment of the impact on investment in this country by 2020 of a very comparable model, and the impact was minus 13 per cent. Our figures were relatively similar, and that translated into 23,000 jobs across various parts of the minerals-producing and minerals-processing sector in this country. Unfortunately the 2011 Treasury modelling does not include the table which assessed the impact on investment by 2020 in particular sectors. That is a great shame for us.²⁴⁰

Suggestions for how this impact could be reduced were made, but have been ignored by the Gillard Labor Government:

We would have said and will say anyway that we believe that two simple changes could be made to the proposed law that would have a significant impact on the trade exposed coal industry and that would also, we think, have widespread community support.

²³⁹ Senator Mathias Cormann; Mr John Harry Pegler, Chairman, Australian Coal Association, Committee Hansard, 27 September 2011, p. 67.

²⁴⁰ Mr Brendan Pearson, Deputy Chief Executive, Minerals Council of Australia, Committee Hansard, 27 September 2011, p. 77.

These are: adopting a phased approach to the auctioning of emission permits for trade exposed industries; and phasing in the inclusion of coalmine fugitives in step with Australia's coal export competitors and over a time frame consistent with the development of fugitive abatement technologies from the current experimental stages to safe, reliable, deployable equipment and processes at commercial scale.²⁴¹

Coal isn't the only energy source that will be hit by the carbon tax. Australia's LNG industry will also take a hit to their competitiveness:

Australia's LNG projects face fierce global competition. Australia's major LNG competitors include Qatar, Indonesia, Malaysia, Trinidad & Tobago, Oman, the United Arab Emirates, Egypt, Equatorial Guinea, Nigeria, Algeria and Brunei. In the future they will include PNG and Russia and could even include the US, on their back of their enormous shale gas developments in recent years. In addition to exporting LNG, the one thing they have in common is that very few are taking any action to put an effective price on carbon and indeed, many are likely to be at the bottom of the list of countries who will be taking action in the foreseeable future. All of Australia's major LNG competitors have not taken on binding emissions reduction obligations and do not have policies that place an "effective" carbon price on their LNG exporters. This means that Australia's LNG exporters are amongst the most trade-exposed of all Australian exporters. They cannot pass increased costs on to consumers and any loss of international competitiveness would benefit Australia's international LNG competitors or suppliers of alternative, higher greenhouse gas emitting, energy sources... the carbon pricing mechanism will apply well in advance of comparable action being taken by many nations with which the LNG industry competes. In doing so, it exposes the Australian economy to higher production costs than those competitor countries that have not implemented emissions reduction policies.²⁴²

LPG producers also expressed their concerns about their treatment in the legislation proposed, which they say will disadvantage them compared with more emissions intensive alternatives:

²⁴¹ Mr John Harry Pegler, Chairman, Australian Coal Association, Committee Hansard, 27 September 2011, p. 65.

²⁴² Australian Petroleum Production & Exploration Association Limited (APPEA), *Submission 5*, pp. 4-5.

Mr Neilson: You are putting a cost on an industry that is not warranted and then, at the same time, you are trying to get abatement in these remote areas, which just does not make sense. You are saying that, if you are in the city on a natural gas pipeline, all those costs to the consumer are controlled by the retailer who is doing that work, but if you go outside the cities into the country areas the marketer or the person who has the supply to that area has to wear the whole cost. The costs cannot be contained – you have to pass them on.

Senator BIRMINGHAM: In your submission on the exposure drafts, you have said clearly that the system proposed for the LPG and its customers is a tax, not a policy for clean energy. There have been no changes to make you change your position on that?

Mr Neilson: No.²⁴³

The minerals, energy and mining sectors have been instrumental to Australia's recent economic success. Yet consistently they argued that the carbon tax aims to damage the very sector which helped to see Australia through the global financial crisis:

The CEFP will add significant costs to doing business, including those in the mining and mineral exploration sector and those that service them, for little or no global environmental gain. The cost will be borne disproportionately by the mineral exploration and mining sector because companies will have little opportunity to reduce costs through alternative energy sources.²⁴⁴

The Minerals Council of Australia provided particularly detailed evidence on the proposed treatment of Australian industry under Labor's carbon tax compared with experience in other parts of the world, especially the EU:

If there are 500 big polluters, 100 of them are mining companies. They will be paying full permit price on all of their emissions. In Europe an industrial firm which is not considered trade-exposed only has to buy 20 per cent of its permits in the first year. This is in the ninth year of their scheme. They only have to buy 70 per cent by 2020 and they by all of them only in 2027 ... 72 per cent of European merchandise exports will get assistance; 20 per cent of Australian firms responsible for merchandise exports will get assistance.²⁴⁵

²⁴³ Mr Warring Neilson, LPG Australia, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 9.

²⁴⁴ Association of Mining and Exploration Companies (AMEC), *Submission 8*, p. 4.

²⁴⁵ Mr Brendan Pearson, Deputy Chief Executive, Minerals Council of Australia, Committee

Many firms who are designated to get trade-exposed assistance in Australia would be better off in Europe being classified as non-trade-exposed, because in that first year trade-exposed firms in Australia on the second tier get 66 per cent of their emissions reimbursed in the form of free permits. In Europe, you start at up to 100 per cent for trade-exposed firms and those that are not considered trade exposed buy only 20 per cent of their permits. Under any of those measures, an Australian firm would be better off in Europe than they are here. Bear in mind, 43 activities in 25 Australian sectors receive assistance; 151 sectors in the EU receive assistance. So there are 125 sectors in Europe that receive assistance that do not get it in Australia.²⁴⁶

I will speak for our sector: we looked at 13 commodities – top four producers and-or exporters – and we could not find a single commodity in any of those countries that was subject to a comparable carbon price. The only one we could find was coal in Poland, but as John Pegler from the Coal Association has pointed out, fugitive emissions in Europe are excluded from the coverage of that scheme. So, inevitably, production will ultimately transfer to lowest cost producers. That is not an economic proposition that is limited to the minerals sector. We produce less than 10 per cent of any commodity of the top 10 commodities, so we do not have market power; the world does not owe us a living. Production can shift from a higher emission carbon-tax-free destination. That is inevitable if we move ahead with the world's biggest carbon tax and other countries do not follow.²⁴⁷

The Council argued that there was even more reason for Australia to provide appropriate consideration to its mining sector than there is in the EU, given the different compositions of our economies:

Mr Pearson: Services clearly play a more important role in Europe than they do in Australia. Europe has a very different economic structure. Despite the fact that Europe is less reliant on mining than manufacturing, the European Union has designated its gold industry as trade exposed and at risk of carbon leakage. It has a small iron ore business and non ferrous businesses. Despite the

Hansard, 27 September 2011, p. 74.

²⁴⁶ Mr Brendan Pearson, Deputy Chief Executive, Minerals Council of Australia, Committee Hansard, 27 September 2011, p. 74.

²⁴⁷ Senator Mathias Cormann; Mr Brendan Pearson, Deputy Chief Executive, Minerals Council of Australia, Committee Hansard, 27 September 2011, p. 75.

fact that Europe is less reliant than Australia on minerals and minerals processing, it has gone further to ensure that those sectors are shielded from global competition, until other countries act. In my book that is counter intuitive.

Senator CORMANN: Given all of that and given the risk of shifting emissions to other parts of the world resulting in increased global emissions, it stands to reason that Australian policymakers should be more cautious in our approach as to how we structure any carbon pricing regime as part of a global agreement than they have been in Europe. The risk for us is higher than the risk for Europe, yet Europe, on the face of it, is way more cautious given what is proposed here in Australia, when really it should be the other way around, shouldn't it?

Mr Pearson: I would have thought it made sense for Australia to at least shape our scheme around the same sorts of protections that the European scheme has. The European scheme is not perfect but it has certainly taken much greater care to transition its industry sectors to protect them until other countries act. According to their climate commissioner, who was here recently, it has been effective. They have had a carbon market established since 2005 with minimal tax raised, but the carbon market functions.²⁴⁸

Even the CFMEU, whose ignorance of their members concerns is addressed in section 2 of this report acknowledged that overseas mines which compete with the employers of their members do not face a carbon tax on their fugitive emissions, as is proposed under Labor's plans for Australia.²⁴⁹

Again, the risk of not just carbon leakage, but transference of production to countries with an even higher emissions profile was considered a real one:

Senator CORMANN: If we indirectly make overseas producers more competitive than equivalent producers in Australia, is all we are doing shifting the problem to other parts of the world, arguably into areas where the problem is going to be bigger than it would have been in Australia?

Mr Pearson: Even some of the coal produced, for example, in other countries is a higher ash, higher emissions intensive product and so the impact is twofold.²⁵⁰

²⁴⁸ Senator Mathias Cormann; Mr Brendan Pearson, Deputy Chief Executive, Minerals Council of Australia, *Committee Hansard*, 27 September 2011, p. 75.

²⁴⁹ Mr Tony Maher, CFMEU, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 6.

²⁵⁰ Senator Mathias Cormann; Mr Brendan Pearson, Deputy Chief Executive, Minerals Council of

The potential impact on the industry wasn't only acknowledged by the industry bodies themselves; the potential reduction in future jobs in some regions and some parts of the mining industry was also acknowledged by other witnesses:

The Minerals Council of Australia put out some work with respect to the emissions trading system which I think was technically very good work. That was in 2008-09. They have agreed essentially, publicly, with those projections in the most recent debate and have used a figure of 23,510 job losses from the mining sector over that 10-year period after which the ETS was going to operate.²⁵¹

The Law Council of Australia also highlighted the confused and uneven treatment under the carbon tax of different business ownership structures, which risks presenting yet another impediment to ongoing investment in the critical mining sector:

Nearly any mining enterprise in Australia will generally be set up as an unincorporated joint venture, so you might have three joint venturers operating together. However, typically they will delegate the operation of the mine to another party – it could be a joint venturer, it could be a related party of the joint venturer or it could be a third-party operator. The point is that under the legislation it will typically be the operator who assumes 100 per cent of the carbon liability. It is the entity that has to go out and purchase the carbon units and surrender them. The bill has a provision under which that operator, with the agreement of three joint venturers, can actually have the liability transferred from the operator to each of the joint venturers in proportion to their joint-venture interests, so a 10 per cent joint venturer would be liable for 10 per cent of the emissions. That does not apply where the structure adopted is a partnership. Partnerships are also very common in the energy and mining industries. For example, a number of the power stations in the Latrobe Valley are actually owned by partnerships, not unincorporated joint ventures. Therefore, there is a distortion in the treatment of carbon liability for unincorporated joint ventures and partnerships, which to all intents and purposes economically speaking are much the same.²⁵²

Australia, Committee Hansard, 27 September 2011, p. 75.

²⁵¹ Professor Bruce Chapman, Crawford School of Economics and Government, Australian National University, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 18.

²⁵² Mr Grant Anderson, Law Council of Australia, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 49.

The next issue in terms of joint-venture interests is that the bill does not make it clear where the joint-venture interests change over a year within the same joint venture how the carbon liability is to be borne by each of those joint venturers. It is not uncommon to have joint-venture interests undergo realignment – for example, where one joint venturer defaults, typically the other joint venturers will pick up that entity's interests. The bill is unclear as to how the joint venturers calculate their carbon liability in that case. That would be an area we suggest needs some fine tuning and clarification.²⁵³

The inquiry heard that emerging sectors faced particular challenges under the carbon tax, such as the magnetite sector:

... we add value in Australia to what are otherwise unsaleable ore bodies in order to produce a high-value product. We have been in dialogue with the government on the design of the carbon tax and its predecessor, the CPRS, for a considerable time but, to be frank, it just seems that that is falling on deaf ears. Whilst it finally seems that we might be getting some sort of support, we do not know the form of that. At the moment, as it stands, our industry looks as though it will get nothing.

Our industry is emerging. It is a growth industry and it ticks a lot of boxes. On a global basis it reduces CO2 emissions from steel making, so it is making cleaner steel products using magnetite as feedstock. The value-adding in Australia is processing poor-quality ore produced to high-purity concentrate and, whilst we have a lot of energy in Australia, the net benefits to the globe are proven. The industry also creates long-term jobs and investment in rural and regional Australia. Many of our projects have a project life in the decades, if not in the centuries.

Selected MagNet member projects in Western Australia alone represent an initial capital investment of some \$18 billion, an estimated \$9.5 billion in annual export revenue, more than 12,000 direct construction jobs and direct permanent jobs for more than 4 000 Australians.²⁵⁴

The punitive domestic carbon tax is a disincentive to investment. We are not talking about government handouts; we are talking

²⁵³ Mr Grant Anderson, Law Council of Australia, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 49.

²⁵⁴ MagNet- Magnetite Network, *Submission 57*, p. 1.

about setting policies that avoid perverse outcomes that penalise an important industry like this. We are developing and have pretty good investment decisions at the moment, and there is a fair bit of uncertainty around the carbon tax that is hampering that.²⁵⁵

As with the Coal Association, it seems the magnetite industry have proposed alternatives to government that go some way to addressing their concerns, which to date the Labor Government appear to have ignored:

... what we propose is that there needs to be a separate activity definition for what we call ultrafine magnetite concentrate. That would enable some certainty for all of these new projects around the fact that there would be a provision. Otherwise, we are left to some, frankly, very vague provisions...²⁵⁶

This is creating uncertainty and is already having an impact on investment:

One of our members, Atlas Iron, has gone on the record in relation to investment uncertainty around its magnetite projects and an investor who withdrew from negotiations – I believe that was the term that was used – over both the carbon tax and the minerals resource rent tax and the uncertainty surrounding those two matters.²⁵⁷

And if not rectified soon they believe Australia will lose the opportunity to capitalise on this emerging industry sector:

We are seeing massive expansion in places like Brazil and West Africa. We are arguing that there is a kind of a window to get these capital investment decisions made here in Australia now, bearing in mind that it takes four to five years to get these projects constructed before they can export. So, whilst we say there will be more global supply, the critical issue for Australia is to ensure that there is a pipeline of projects under construction here so that, when there is extra supply, we will be well and truly a part of that global market. I think it is pretty clear that the Chinese steel mills, being such a big percentage of the demand globally, would like to see greater diversity of supply, and this is Australia's big chance to

²⁵⁵ Mr Bill Mackenzie, Magnetite Network, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 48.

²⁵⁶ Ms Megan Anwyl, Magnetite Network, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 49.

²⁵⁷ Mr Bill Mackenzie, Magnetite Network, *Proof Committee Hansard*, Sydney, 28 September 2011, pp. 50-51.

provide that diversity of supply, but that is not something that will always be possible in the future.²⁵⁸

It may be more established, but the chemical lime industry also reported an uncertain future under the carbon tax to the inquiry:

Lime is a very diverse chemical. It is widely used in manufacturing areas such as steel production, aluminium, paper, water quality, air quality areas and construction materials. We are a regionally based industry. We have 20 operating sites in Australia – a lot of plant. Plant is located for longevity, so 30, 50, 100 years existence. We are capital intensive, greenhouse intensive, energy intensive and technically intensive.²⁵⁹

The treatment of process emissions poses a particular problem to this and other industries:

Fifty-six per cent of our emissions come from the raw material that we use to make lime, so we do not have an option as to how we can reduce those emissions. One of our points today will be about process emissions. Thirty-nine per cent of the emissions are in the stationary energy sector, through fuelling kilns in order to produce lime. Four per cent comes from electricity and about one per cent from transport energy.

Process emissions, which come from the conversion of calcium carbonate into calcium oxide, therefore emitting carbon dioxide, have no relationship to energy or energy efficiency. There is nothing we can do specifically to address those process changes. That is part of the cake mix, if you like. It would be like trying to take flour out of a cake mix. The industry therefore sees the impost of a carbon price on those emissions as not being productive in terms of reducing Australia's greenhouse footprint, contributing to any of the objectives of this scheme.²⁶⁰

Industry argued that these emissions are unavoidable:

Process emissions come from taking the absolute and only raw material and converting it into the product, and unless someone comes up with another raw material for making lime there is

²⁵⁸ Ms Megan Anwyl, Magnetite Network, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 52.

²⁵⁹ Mrs Roslyn DeGaris, Chief Executive officer, National Lime Association of Australia, *Committee Hansard*, 27 September 2011, p. 18.

²⁶⁰ Mrs Roslyn DeGaris, Chief Executive officer, National Lime Association of Australia, *Committee Hansard*, 27 September 2011, p. 18.

nothing we can do about the cake mix. We can do things about energy, and we are doing things about energy – there is enormous investment in the industry into making energy efficiency – because that is the element that keeps competitiveness with imports out.²⁶¹

They further highlighted this problem through reference to the EU scheme:

when it comes to investing in a kiln, we buy that technology from Europe. I think it is worth noting that after six years or whatever it is of the European scheme being in place, we are not seeing any new technology in lime production coming through from Europe. There is nothing that is going to provide us with a stepped change to our emissions.²⁶²

Associated with the problems faced by the industry under the carbon tax, they point to the limited activity definition applied to their production and therefore the extent of compensation available, as well as the decaying of that compensation over time:

The lime industry will receive 94.5 per cent. It is across only the kiln operation, so it does not include the winning and excavation of material into the process and it does not include any downstream processing of lime. We still have a degree of debate currently with the department over what is and is not included. For example, there is one process that we have that we believe should be part of that calculation for assistance. That is currently being discussed with the expert advisory panel. The 94.5 per cent will of course decay at 1.3 per cent during the course of the following years and that is of serious concern to the industry. We are very much lineball with imports. It does not take much of an import to actually knock off the industry. What you need to understand is that you can run a kiln process on or you can turn it off; there is no in between time. So even if imports take over a portion – 10 or 20 per cent of that production – you lose the capacity of the kiln that makes it economic to continue, so you need to shut the process down, and that will change the industry significantly.²⁶³

²⁶¹ Mrs Roslyn DeGaris, Chief Executive officer, National Lime Association of Australia, Committee Hansard, 27 September 2011, p. 19.

²⁶² Mrs Roslyn DeGaris, Chief Executive officer, National Lime Association of Australia, Committee Hansard, 27 September 2011, p. 19.

²⁶³ Mrs Roslyn DeGaris, Chief Executive officer, National Lime Association of Australia, Committee Hansard, 27 September 2011, p. 22.

The administrative requirements of the carbon tax scheme were also described as “quite taxing”²⁶⁴ while other features of the legislation were highlighted as creating great uncertainty:

The CEF is described in 3 stages implemented over 7 years. In the first stage 3 comprehensive reviews by the Productivity Commission will influence the CEF’s direction and conditions. This places EITE industry with no more than 5 years of assistance certainty and even less certainty in the scope of the overall scheme. The Lime industry is capital intensive and has long associations with its location and technology. 3 to 5 year horizons are short term planning insufficient for business investment certainty. The CEF legislation in draft and without regulations 9 months before the program start has seriously jeopardised 2012 budgets for the industry and gives no time for systems to be implemented to manage the complexity and impact of the change.²⁶⁵

We have also struggled with the extensiveness with which the bill changes the way our accounting methods have to operate, and that means that we are basically across all areas of the business structure in terms of change. Given that the regulations for managing this bill are not going to be through until March next year, this is a great area of uncertainty for our industry.²⁶⁶

Unsurprisingly, this causes a significant impact to the lime industries competitiveness, with the industry already having recent, firsthand experience of its trade exposure:

Senator CORMANN: With the carbon tax as it is proposed, how will that position your industry from an international competitiveness point of view?

Mrs DeGaris: Until December 2009 the industry had always provided for the needs of Australia's lime market. When in 2009 it looked as if the CPRS was going to go through we immediately saw an import established in Western Australia – in your state, Senator Cormann – and that has severely knocked the industry around in Western Australia. The establishment of imports from the Thai company came within three months. They came across

²⁶⁴ Mrs Roslyn DeGaris, Chief Executive officer, National Lime Association of Australia, Committee Hansard, 27 September 2011, p. 18.

²⁶⁵ National Lime Association, *Submission 4*, p. 4.

²⁶⁶ Mrs Roslyn DeGaris, Chief Executive officer, National Lime Association of Australia, Committee Hansard, 27 September 2011, p. 18.

and did a trade visit around Western Australia and the Northern Territory and within three months had established for themselves a footprint for using our own infrastructure to supply the mining industry and so on. So it was very, very quick.

Senator CORMANN: What is the emissions intensity of your competitors, to the extent that the carbon tax in Australia makes your competitors overseas more competitive and helps them take market share away from your members here in Australia? What is the emissions intensity of your competitors overseas? Is it possible that emissions would actually end up being higher rather than lower, assuming that demand for lime and so on would stay the same?

Mrs DeGaris: We have done a study on that, and the Australian footprint for emissions is lower than our competitors' internationally when looked at country for country. You can certainly find a plant and compare plant with plant, but if you look at the country emissions versus the country emissions we are competitive here in Australia in terms of carbon leakage. Movement of product to be manufactured overseas would certainly increase the country's footprint.

Senator CORMANN: So, to the extent that overseas competitors take market share away from you, not only will it result in a reduction in economic activity in Australia but it will actually lead to an increase in global emissions?

Mrs DeGaris: Yes.²⁶⁷

Experts from the Australian National University agreed that process emissions needed special treatment to minimise the risk to industries:

That is right. You are picking a product where there is a lot of process emissions that do not differ a lot between countries. That is a perfect example of a product where, in the transition to a more uniform international system of mitigation, you would be putting in place safeguards to avoid unnecessary or counter-productive relocation of industries.²⁶⁸

²⁶⁷ Senator Mathias Cormann; Mrs Roslyn DeGaris, Chief Executive officer, National Lime Association of Australia, *Committee Hansard*, 27 September 2011, p. 20.

²⁶⁸ Dr Frank Jotzo, Crawford School of Economics and Government, Australian National University, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 24.

Lime is of course a key input to the cement industry, which will equally be hit on all fronts by rising lime and input price rises, increased transport costs, the carbon tax applying to process emissions and soaring electricity charges:

The Australian cement industry recognises the threat that climate change poses to our natural environment. We have been working diligently on this challenge for well over a decade and have developed and maintained a verifiable emissions database extending back to 1990. Since that time the industry has maintained carbon dioxide emissions at 108% of 1990 levels while increasing production by 40% and reduced the carbon intensity of its product by 24% per tonne.²⁶⁹

Based on the current details included in the proposed *Clean Energy Future Package (CEF)* ... Australian cement manufacturers will be required to assess whether to produce cement locally, to import clinker for cement milling in Australia or to import cement. This decision will be made based on their overall competitive position relative to imports, including their ability to pay the proposed carbon liability. In the long run cement closures will occur, thus exporting jobs without changing global emissions unless our Asian competitors introduce a similar carbon price.

Emissions Intensive Trade Exposed (EITE) 'free permits' for Australian cement manufacturing are proposed to be limited to clinker production and will exclude cement milling. As a result, only 86 per cent of cement CO₂ emissions will be covered by 'free permits' in July 2012, with the clinker component declining annually at a rate of 1.3 per cent (known as the 'carbon productivity factor').

While the industry can understand the reasoning for a 'carbon productivity factor', the one size fits all approach makes no recognition of the fact that 50 per cent of the emissions from cement manufacturing cannot possibly be avoided as they are produced as a result of a chemical process in changing limestone to first stage of cement production, known as clinker. This will mean that carbon reductions from the remaining part of the cement manufacturing process must be found at twice the rate compared to other EITE affected industries.

²⁶⁹ Australian Industry Greenhouse Network (AIGN), *Submission 33*, p. 4.

Based on current estimates, cement manufacturing net profits will decline by approximately 22 per cent by 2020 as a result of the Clean Energy Future Package.²⁷⁰

Again, the industry highlighted the different treatment of their product in other countries:

No other country's cement sector will be left exposed as the Australian cement industry ... New Zealand's cement industry definition covers both clinker and cement (this will become very important as Australia changes to an ETS in 2015 with the potential to link schemes through forums such as the Australian-New Zealand Closer Economic Relations (NZCER) ... The European Union has provided free permits to domestic cement companies that will protect it from the true impact of a carbon price for many years ... The California Government has halved the decay rate of free permit allocation for the cement sector (meaning that the level of support over time is higher for cement compared to all other commodities).²⁷¹

This again highlights just how far in front Australia is getting with its carbon pricing scheme compared to any other proposal around the world.

It's not just mining or heavy industry that will be under threat thanks to the carbon tax, nor the other industries or groups identified elsewhere in this report, but large service providers also face the potential for huge impacts. Bond University claimed in a submission to the inquiry that it will face significant new costs:

Bond University has estimated the impact of the proposed carbon tax on the University. It will affect Bond both directly and indirectly. It will directly affect Bond when we exceed the threshold (which we expect will be in 2012/13), approximately costing initially between \$650,000 and \$760,000 in direct costs at the price of \$23 per tonne. In addition Bond will be affected by the indirect costs which include the increases in electricity, travel and wages which we estimate will cost an additional total of \$1.3 million, leaving Bond with a total impact on the bottom line of \$2 million per annum.²⁷²

²⁷⁰ Cement Industry Federation, *Submission 32*, p. 2.

²⁷¹ Cement Industry Federation, *Submission 32*, pp. 4, 7.

²⁷² Bond University, *Submission 23*, p. 1.

Bond's expenditure comprises around 0.7% of sector expenditure. If we were to scale up Bond's estimated proposed carbon tax impact of \$2 million per year to the sector level, this means we would have a sector wide impact of the proposed carbon tax in the range of \$200-300 million. ²⁷³

Bond University identified two options it would have to consider if these costs of the carbon tax materialise over the coming years: either increase revenue by raising fees or reduce costs through a reduction of staff. ²⁷⁴ Both, ultimately, have a negative impact on students.

It seems that wherever anyone turns, the carbon tax will have an impact.

²⁷³ Bond University, *Submission 23*, p. 1.

²⁷⁴ Bond University, *Submission 23*, p. 4.

9. Crippling competitiveness

Industry assistance neither adequate nor guaranteed

Labor has made much of their own claims that assistance for industry will preserve competitiveness and protect jobs. Those whose businesses will be directly affected are not convinced:

The fixed carbon prices within the policy are unnecessarily high and disruptive, and are out of step with current international carbon prices ... The grants package for manufacturers, while welcome, does not address the up-front cost impact that businesses will face before energy efficiency and emissions reduction projects can bear fruit. These transitional impacts are severe in some cases, particularly where industries fall short of the thresholds for the Jobs and Competitiveness Program (JCP)...²⁷⁵

Alarming for the small number of businesses who have been promised some assistance so as to partially offset the impact of the carbon tax on their viability of competitiveness it seems that such assistance is far from guaranteed and is actually dependent on the political priorities of the government of the day. In a move which can only add to uncertainty for business, the Department of Climate Change and Energy Efficiency has confirmed that industry assistance may have to be traded reduced if government promises of continued consumer assistance are to be met from within the budget:

Senator BIRMINGHAM: Can the fiscal impact of keeping compensation measures to households up with the adjustments in the carbon price be met purely from within the government's revenue stream from the sale of permits?

Mr Comley: It depends what happens with other elements of the package. I do not think I could go into a hypothetical discussion of what may or may not change in the second half of the decade or beyond.

Senator BIRMINGHAM: So to meet it within the government's income stream you may have to reduce industry assistance further to be able to pay for household compensation?

²⁷⁵ Australian Industry Group, *Submission 2*, p. 2.

Mr Comley: Not necessarily, except for those elements of industry assistance that have already been preannounced will cease. For example, there is the Energy Security Fund effectively over six years that will cease and will no longer be a call on funds after the first five-year period, but there could be other elements of the package that change over that time frame.

Senator BIRMINGHAM: In terms of the work you have done as to what could happen beyond the forward estimates, you are relying upon the expiration of programs that have been announced to date to fund by any means the upkeep of household compensation?

Mr Comley: Not necessarily. I just pointed to one that is actually quite significant – in the order of \$1 billion a year – and programmed to end because it is a one-off transitional assistance fund. How a government would deal with any assistance beyond that period would be more speculative.²⁷⁶

This uncertainty for industry is exacerbated by a number of the mechanisms contained within the carbon tax bills:

The extensive, almost continuous review processes create a large degree of uncertainty and risk. This does not provide industry with certainty regarding policy direction to allow for investment in lower emissions technologies. The current proposal creates further uncertainty and transfers the risk to industry because it can be reasonably foreseen that there may be delays or complexity in the Productivity Commission assessing any comparable price on carbon being placed on foreign competitors.²⁷⁷

Leaving clause 156(3) as currently drafted dilutes what has been communicated as a certain part of the policy, to something that is simply a possibility. This forces the emissions-intensive trade exposed sector to carry all the risk; including for Government delays, difficulties in assessing other countries' policies and changes in interpretation. This is not reasonable, particularly given that all those factors are outside the control of the emissions-intensive trade-exposed sector. It should be noted that this is more than a simple hypothetical scenario. Given the current state of international progress in implementing carbon costs, it is highly likely that in 2015 many industries will be facing the situation that

²⁷⁶ Senator Simon Birmingham; Mr Blair Comley, Secretary, Department of Climate Change and Energy Efficiency, Committee Hansard, 21 September 2011, p. 22.

²⁷⁷ CSR Limited, *Submission 20*, pp. 2-3.

less than 70% of their competitors are paying a comparable carbon cost.²⁷⁸

For trade-exposed industry, the Jobs and Competitiveness Program (JCP) introduces a range of new uncertainties that may restrict investment in abatement and new production... It is proposed that the Productivity Commission will review the JCP three times in five years between 2014 and 2018. The PC has the scope to recommend a complete recasting of the JCP scheme and radical changes to the treatment of individual activities, the prospect of which is likely to undermine the business case for any investment in emission reduction in JCP industries in the next five years.²⁷⁹

Others already know that the so-called assistance they may receive is likely to decline and be eroded over time, regardless of how emissions intensive or trade exposed their industry remains into the future:

This limited and declining assistance fails to secure the ongoing competitiveness of Australian LNG. It also fails to recognise that the exposure of Australian LNG does not decline gradually year on year; rather it is linked to Australia's LNG competitors adopting similar carbon costs.²⁸⁰

Some sectors fear that although they may not meet the original definitions required to receive assistance the failure to do so may see them become increasingly exposed very quickly:

Other sectors may become increasingly trade exposed, in part as a result of carbon pricing and should be eligible for assistance when this occurs. Therefore the CEF needs to address sector specific needs rather than arbitrary cut-offs. The insulation industry is a case in point. CSR's insulation business, Bradford Insulation is trade exposed but because the CEF does not address sector specific needs and includes arbitrary cut-offs, this business will receive no transitional assistance.²⁸¹

While in the short term the Government is committed to providing some assistance to some industries, the unavoidable fact remains that many businesses

²⁷⁸ Australian Aluminium Council Limited, *Submission 24*, p. 2.

²⁷⁹ Australian Industry Greenhouse Network (AIGN), *Submission 33*, p. 3.

²⁸⁰ Australian Petroleum Production & Exploration Association Limited (APPEA), *Submission 5*, p. 6.

²⁸¹ CSR Limited, *Submission 20*, p. 2.

will not receive any compensation while their competitors face no similar or comparable cost on emissions incurred as a result of doing normal business:

... when we look at our trade competitors – not our trade partners but our trade competitors: countries such as Brazil, Canada, South Africa and, to some extent, the USA – we cannot see any movement by them towards an international agreement. Our fundamental view is that if we move unilaterally and not in concert with, in particular, our trade competitors, then we are going to be at a substantial economic disadvantage.²⁸²

With competitors not facing a carbon cost, businesses know that they are going to take a hit to their competitiveness on international markets and jobs. The already struggling manufacturing sector will particularly be under threat:

Mr Evans: You can hardly see that a tax would make us more competitive. In the economic circumstances in Australia at the moment, we are seeing job shedding in manufacturing. We have lost 100,000 jobs over the last one to two years. There are now under one million people employed directly in manufacturing. A carbon tax will only contribute to the loss of jobs in that sector.

Senator CORMANN: Treasury modelling shows a reduction in real wages compared to business as usual. How realistic is it that unions and employees across Australia will accept a reduction in real wages while facing increases in the cost of living as a result of the carbon tax?

Mr Evans: We find it very hard to understand why union leadership would be promoting a carbon tax, because it is unambiguously bad for Australian jobs and it is unambiguously bad for their members. So we are in a position where it is left to the business community to stand up for their employees and their workforces in terms of trying to promote the competitiveness of those businesses and security of employment.²⁸³

With the high Australian dollar, global financial markets in turmoil and the risk of another downturn many witnesses and submitters argued that this is the worst possible time to be adding another burden on Australian businesses, especially one not faced by competitors. They argue that it is just making a difficult situation worse:

²⁸² Mr Greg Evans, Australian Chamber of Commerce and Industry, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 31.

²⁸³ Mr Greg Evans, Australian Chamber of Commerce and Industry, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 32.

... only last week we released the ACCI-Westpac Survey of Industrial Trends – at 50 years, the oldest business survey in Australia right now. It surveys the circumstances of manufacturers. From that survey it is clear that the overwhelming view of respondents is that business and consumer confidence is at a low level – the lowest it has been since the GFC. They are concerned about international circumstances, but one of the other responses was that they are very concerned about the domestic situation as well. Without prompting they mentioned that the carbon tax was having a negative impact on confidence in their business and contributing substantially to uncertainty. These are manufacturers – the most exposed people to the carbon tax. They can see that not only will they have higher energy prices but many of their imports will go up in price as well. That uncertainty is plaguing them at the moment. Our concern is why you would want to impose an additional tax on top of all the other competitive pressures that they are facing at the moment.²⁸⁴

The high A\$ is already hurting our exports and this tax will make it even more difficult for many of these businesses to continue to export. The loss of exports will in many cases reduce production volumes and so increase unit production standard costs with the inevitable result that many businesses will no longer be able to compete and be forced to close their doors and throw hard working Australians out of work into a job market of diminishing opportunities.²⁸⁵

Even advocates of the carbon tax bills, such as the Investor Group on Climate Change, accepted that if Australia undertaking actions that increase the disparity of returns between Australia and overseas that will influence investment decisions.²⁸⁶ Other witnesses also felt strongly that the lack of similar global action will cost Australian business dearly and will make Australia a less attractive investment location, depriving future generations of economic opportunities:

... the issue is not that we as the magnetite industry are opposed to being part of a global carbon trading system – in fact, far from it because of the clear benefits in life cycle that come from our product. However, at the moment, because this tax is being

²⁸⁴ Mr Greg Evans, Australian Chamber of Commerce and Industry, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 32.

²⁸⁵ Mr Bruce Wheeler, unaccepted submission, received 18 September 2011, 1.54PM.

²⁸⁶ Mr Nathan Fabian, Investor Group on Climate Change, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 14.

imposed unilaterally in Australia that has the unintended consequence of reducing the amount of capital that is going to come to Australia to develop this industry...²⁸⁷

There was also concern that the Government is demonstrating a fundamental lack of understanding of the Australian economy and our role in the global supply chain:

I think that we have to understand for what purpose our emissions are being generated. Thirty-three per cent of Australia's emissions are embedded in our exports. In other words, other countries have said, 'We do not have the resources endowment or the land to produce beef, gold, nickel, coal or iron ore but Australia does. So we will subcontract you, Australia, to produce those goods.' Through the act of subcontracting Australia to do it, their emissions are lower, because they do not have to produce all of those products within their national boundaries. So, in the world division of labour, Australia performs that task. We have a comparative advantage do so. That is why, as I said, 33 per cent of our emissions are embodied in exports. The comparable figure in the United States is about eight per cent.

The effect of that is to exaggerate Australia's emissions per capita and to artificially lower the emissions per capita in the country of purchase. Belgium has lower emissions because it imports Australian beef, which emits methane. Counting emissions by where they are produced is a far inferior option to counting emissions where they are consumed. We would be much better off if the international and national debates focused on that and not on this very artificial 'Australia is bad because it performs a task for others.'²⁸⁸

...the scheme will inevitably hinder investment and jobs growth in Australia without meaningfully reducing global carbon emissions. It will undermine Australia's international competitiveness and hurt the nation's export-competing industries. ²⁸⁹

²⁸⁷ Mr Bill Mackenzie, Magnetite Network, *Proof Committee Hansard*, Sydney, 28 September 2011, p. 52.

²⁸⁸ Mr Brendan Pearson, Deputy Chief Executive, Minerals Council of Australia, *Committee Hansard*, 27 September 2011, p. 76.

²⁸⁹ Rio Tinto, *Submission 29*, p. 1.

Even with regard to the interaction of this new tax with other parts of the tax system the carbon tax appears to have been ill thought out, with the Law Council of Australia suggesting that:

... the Package requires amendment [regarding] the taxation treatment of those who hold emission units. Those provisions create tax liability for holders of units in ways which contradict the fundamental principles underpinning the income tax and GST legislation, in that they, among other things:

Tax the increase in value of an emission unit over a year, when it has not been sold or otherwise disposed of, and

Treat the moving of international units into Australia, where ownership does not change, as a sale for CGT purposes.

(a) is no different from taxing the owners of shares on the ASX on the increase in value of the shares each year. Such a provision applied to shares would see the owners having to pay tax each year the shares increased in value, even if they never sold the shares.

(b) Appears intended to penalise those who seek to bring international units to Australia to satisfy their liability and act as a deterrent to doing so.

Both types of provision appear to have as their objective allowing the government to profit from the increase in value of units held by industry. Not only will the government receive the initial price of a unit when sold or auctioned, but it will also participate (at the expense of the holder of the unit) in any subsequent increase in value of the unit.

The irony is that if the unit increases in value, then so too must the quantum of liability it has been acquired to satisfy so there is no net gain to the holder of the unit – but he or she will nonetheless be taxed on the notional increase in value of both the unit and the liability.²⁹⁰

Despite what the Labor Government clearly thinks, Australians aren't fools. Vast numbers of the thousands of submissions unpublished by this inquiry highlighted the crippling competitiveness the carbon tax could have on the competitiveness of Australian businesses and industry. Australians know this tax is bad for business and reducing the competitiveness of business is bad for all Australians:

²⁹⁰ Law Council of Australia, *Submission 61*, pp. 1-2.

I am opposed to the carbon tax as I believe it will have an adverse effect on Australian industry and the people in the long run...²⁹¹

This tax will render Australian business uncompetitive and destroy our economy, it will create terrible suffering for those already struggling with day to day expenses and could also lead to bankruptcy.²⁹²

There will be no way our Companies (such as mining, aluminium and coal) can compete in this already fiercely competitive world.²⁹³

The increased cost of electricity flows through to everyday life and will reduce Australia's competitiveness to compete with the rest of the world. History shows that no country has created adequate growth by increasing costs above its competitors.²⁹⁴

Please reject this tax as it ... will have an incredible negative influence on our economy, jobs, cost of living, the building industry [steel, concrete, glass, aluminium, etc.] manufacturing, farming. Why should we have a tax that gives an advantage to the rest of the world produces over Australians?²⁹⁵

Imposing greater costs on Australian businesses at this time of global economic fragility will make it harder for businesses to commit to new expansions, giving our competitors overseas a greater advantage in all industries.²⁹⁶

The new carbon dioxide tax ... will harm Australian jobs, will damage our exports and industry, and will unnecessarily put even more burden on the economy...²⁹⁷

I am concerned as to the internationally competitiveness of Australia's business and the impact of the proposed carbon tax on that competitiveness.²⁹⁸

We currently have an advantage with some of our exports, however this will soon disappear once the carbon tax is introduced and our competitor nations move in on our markets, simply due to

²⁹¹ C.B. Hopkins, unaccepted submission, received 17 September 2011, 1.09PM.

²⁹² Mr Joe Buttigieg, unaccepted submission, received 20 September 2011, 6.43PM.

²⁹³ Mrs Terrie Hancox, unaccepted submission, received 20 September 2011, 3.24PM.

²⁹⁴ Mr John Jordon, unaccepted submission, received 20 September 2011, 2.28PM.

²⁹⁵ Mr Ivor Lewis, unaccepted submission, received 19 September 2011, 5.24PM.

²⁹⁶ Mr and Mrs Paul and Kell Hilder, unaccepted submission, received 18 September 2011, 6.07PM.

²⁹⁷ Mr Ian Faust, unaccepted submission, received 18 September 2011, 2.08PM.

²⁹⁸ Mr Martin Hovey, unaccepted submission, received 18 September 2011, 2.08PM.

the stupid measures of a government which does not have a clue on how to handle any issue.²⁹⁹

The proposed tax is the highest in the world and while something may need to be done re climate change we in Australia are a small fish in a big world and with the world economy in such a fragile state we should be looking to keep our own economy as strong as possible and not send millions or even billions of dollars overseas with carbon credits. If our coal producers and others have to pay another tax then some may become not viable but that will not stop coal from somewhere else being used instead.³⁰⁰

Many businesses just will not survive and cannot compete against other countries. Small business is struggling now paying high tax and other compulsory expenses - there's not much profit left over, and in many businesses they will not be able to cope.³⁰¹

It is hard for Australia to remain competitive on an international level but by its introduction this tax would lead to a more uneven "playing field" making us less competitive and reducing employment potential.³⁰²

Many more people who took the time to contact this inquiry made it clear that they understand the link between global competitiveness and jobs, specifically expressing their concerns about the impact this tax on employment:

It will have no impact on the environment but will have severe ramifications for industry, families and jobs.³⁰³

A carbon tax will increase costs to our exporters and make us internationally uncompetitive. As a result unemployment will be adversely affected.³⁰⁴

Australian produce & products will be replaced by imports and Australian people will lose our jobs as we cannot remain competitive. Producing these products overseas will consume the same energy with similar carbon dioxide and in many of these

²⁹⁹ Ms Denise Sygrave, unaccepted submission, received 18 September 2011, 2.04PM.

³⁰⁰ Mr Ken Morrison, unaccepted submission, received 18 September 2011, 2.03PM.

³⁰¹ Ms Helen James, unaccepted submission, received 17 September 2011, 2.41PM.

³⁰² Mr John Hutchin, unaccepted submission, received 17 September 2011, 2.23PM.

³⁰³ Mr Matt Wharf, unaccepted submission, received 17 September 2011, 12.33PM.

³⁰⁴ Ms Jocelyn Cummings, unaccepted submission, received 20 September 2011, 5.28PM.

countries there are much greater pollution issues into the atmosphere, waterways and deforestation.³⁰⁵

I am opposed to the proposed Carbon Tax because it will rob ordinary Australians like me of our jobs and livelihood. It is a damaging tax and will make Australia even less competitive than it already is in this increasingly globalised world.³⁰⁶

This ... is driving up the cost of electricity and manufacturing and generally driving up the cost of business which is making us uncompetitive. It must stop as this will end many jobs.³⁰⁷

I am currently working on a project for Woodside Petroleum which requires steel sections to support pipe spools carrying natural gas. Both the spools and steelwork are becoming harder and harder to source. Why? Because the mills in Wollongong have become so uncertain about their future they have laid off the very people who make it. Now when my only option is to import steel (ore mined here and exported to be value added overseas) for use on an Australian project for domestic gas use I start to worry. And it won't get any better. The proposed tax ... will make conditions extremely difficult for many industries.³⁰⁸

Other Australians expressed their worries that the way in which the carbon tax will particularly drive up the price of electricity will, as a result of the pervasive nature of the costs for this near universal input cost, reduce competitiveness of business across the board:

... it seems it is the intention of the legislation that Australian energy will no longer be cheap. This will devastate the Australian economy and make its situation completely non-competitive with relation to other countries. Only New Zealand and Europe are pressing ahead with this sort of tax. New Zealand has plenty of hydro electricity as an offsetting factor while Europe has nuclear energy. Australia alone is almost entirely dependent on fossil fuels.³⁰⁹

It is ludicrous to impose the world's highest tax on Carbon Dioxide on an economy that will ... erode our international competitiveness. Australia's competitive advantages have always

³⁰⁵ Mr Klaas Kamminga, unaccepted submission, received 19 September 2011, 10.04PM.

³⁰⁶ Yu-Seong Kong, unaccepted submission, received 18 September 2011, 10.12PM.

³⁰⁷ Mr Bart Ristuccia, unaccepted submission, received 18 September 2011, 7.40PM.

³⁰⁸ Mr David Nesbit, unaccepted submission, received 17 September 2011, 1.56PM.

³⁰⁹ Ms Jocelyn Maxwell, unaccepted submission, received 19 September 2011, 10.06PM.

rested on the relatively cheap energy that abounds in this country. ... It is because of this competitive advantage that we have been able to maintain high wages in the Australian economy competing with low wage countries. If the cost of energy is artificially raised by this government action then it is easy to see the competitive result on the economy. Everyone in the country will suffer despite the compensation offered because there are automatic rises in the level of tax. This course is a recipe for economic ruin. We should be playing to our economic strengths instead of trying with all our might to destroy our economic advantage. You can be sure no other nation is as willing to destroy their economy as we seem to be.³¹⁰

Australians appreciate that jobs and investment are already under threat in the manufacturing sector, which has been in decline for years. Many Australians are worried that a carbon tax will simply accelerate this decline, costing more jobs, closing more business and shutting down this sector:

I do not believe that Australia should have a tax on carbon. It will make us uncompetitive to the rest of the world and we are already struggling to with our manufacturing industries. Why penalise ourselves with nothing being achieved to reduce carbon dioxide in the atmosphere. Only paper shuffling with handouts and a huge bureaucracy to manage it.³¹¹

The Carbon Tax/ETS will make our international manufacturing and mining products more expensive and uncompetitive, especially when there are other sources of supply readily available from our competitors, such as Canada, China, the US and Brazil. ... Bluescope Steel have stated that pricing carbon risks killing off Australian manufacturing by sending steel production offshore to either Asia or North America and what hypocrisy that we should not be allowed to use cheap coal fire power when we ship it off to China and India for them to burn!³¹²

It will destroy manufacturing and create massive job losses on a scale that will never be offset by any job creations in the so called "green economy". Price increases on virtually every commodity

³¹⁰ Captain Bruce Dann, unaccepted submission, received 19 September 2011, 7.10PM.

³¹¹ Mr Ian Els, unaccepted submission, received 19 September 2011, 10.37AM.

³¹² Ms Elizabeth Hamilton, unaccepted submission, received 20 September 2011, 4.53PM.

and service will create massive hardship for the majority despite the claims by the Government of tax cuts and compensation.³¹³

We are already seriously disadvantaged by the value of the Australian dollar against major currencies. Following so closely behind the GFC and the effects this event has had on business within our country, the potential for business to stay competitive on world markets and shoulder an additional tax which it may not be able to pass on is a dangerous policy indeed. The loss of manufacturing businesses within this country is already at alarming proportions. Do we have to further burden those that are left by imposing yet another cost.³¹⁴

The tax will ... place Australia at a serious disadvantage in economic terms with other trading nations and damage our manufacturing industries.³¹⁵

It won't just be manufacturing jobs that the carbon tax sends offshore, Australians are also concerned that a range of carbon and energy intensive industries will become uncompetitive and move to countries where there is no carbon tax:

Adding expense to Australian goods and services will clearly reduce our international competitiveness and lead to work being outsourced to cheaper countries.³¹⁶

I object to the tax because it is extremely detrimental to the Australian economy. It will impose the highest carbon price in the world, compromising the competitiveness of Australia's export and import competing sectors without environmental benefit. The government's own Productivity Commission has reported that without comparable measures in competitor countries, that could merely shift output and emissions to our commercial rivals.³¹⁷

High emitting industries will not cease production but merely transfer to other countries that do not require an equivalent tax or level of tax on carbon dioxide. Therefore a unilateral tax will have minimal effect on world pollution but will drive Australian manufacturing jobs off shore to other countries.³¹⁸

³¹³ Mr Jeffrey Bayliss, unaccepted submission, received 19 September 2011, 10.01PM.

³¹⁴ Mr Brendan Robertson, unaccepted submission, received 19 September 2011, 10.04PM.

³¹⁵ Mr Ross Manley, unaccepted submission, received 18 September 2011, 4.32PM.

³¹⁶ Ms Jenny Dolzadelli, unaccepted submission, received 20 September 2011, 7.45PM.

³¹⁷ Mr Roy Ford, unaccepted submission, received 18 September 2011, 5.57PM.

³¹⁸ Mr Bill Oakley, unaccepted submission, received 18 September 2011, 5.51PM.

I do support a cleaner energy future but for Australia to introduce a carbon tax starting at \$23 a tonne is much too high and will force industry to move their operations overseas where they can pollute as much as they like or they will close down.³¹⁹

As a resident of Geelong and a past manager of a company that supplies to the aluminium industry the effect of a carbon tax on the city will be catastrophic to industry and employment for Geelong. Alcoa will just close the Point Henry plant and start up again in Asia have they have done in the United States with the closure of many Alcoa plants. Geelong survives on Alcoa, Ford and the Shell refineries, and these three have already in place clean filter systems at their plants, that are far superior to anything that will be in place in Asia. They are already doing their part to make Australia a cleaner country without this totally unnecessary tax which will hurt families in Geelong and the rest of Australia.³²⁰

Indeed one submission quoted former Minister for Climate Change, Senator Penny Wong, expressing just this concern in a speech to the AIG luncheon on 6th February 2008:

The introduction of a carbon price ahead of effective international action can lead to perverse incentives for such industries to relocate or source production offshore” and “There is no point in imposing a carbon price domestically which results in emissions and production transferring internationally for no environmental gain.³²¹

Senator Wong is correct in this instance and many Australians agree with her that with no effective international action, Australia shouldn't be going it alone:

Can you explain how the added cost of this new carbon dioxide tax is going to allow Australia to compete economically with the world markets on a level playing field when no other country, including USA is going to introduce such a high tax?³²²

Why would we wish to place extra costs and burdens on the economy when the impact of this carbon tax will be so minuscule in world terms, and during times when the rest of the developed world is retreating from such carbon tax impositions.³²³

³¹⁹ Mr Rob Elings, unaccepted submission, received 18 September 2011, 1.54PM.

³²⁰ Mr Ken Wright, unaccepted submission, received 17 September 2011, 1.56PM.

³²¹ Mr Thomas Frew, unaccepted submission, received 18 September 2011, 1.53PM.

³²² Ms Diane Mills, unaccepted submission, received 18 September 2011, 1.51PM.

³²³ Mr Steve Simpson, unaccepted submission, received 17 September 2011, 12.40PM.

It will destroy our international competitiveness, cause many firms and businesses to go broke, and destroy an enormous number of jobs in many sectors. To go this way, when our trading partners do not, is patently stupid.³²⁴

Most countries are not entertaining such a taxation proposal mainly because of the obvious negative economic implications. Considering the current global financial meltdown, introduction of a Carbon Tax is both irresponsible and inane. It will place Australia at risk economically and financially.³²⁵

Why are we being penalised while countries like China, India and the USA are forging ahead WITHOUT a tax.³²⁶

Why are we leading the world in this? Let us see what the US, China and India do before we disadvantage our industries even further.³²⁷

... the major emitters of carbon dioxide in the world, namely China and the USA have stated that they have no intention of introducing similar legislation in the near or medium future. This legislation will place an unfair burden on our economy and make us less competitive in the world market and have a negative effect on our economy. It will increase inflation, increase unemployment and increase the cost of living. This will adversely affect all Australians but especially those who are in the lower socio-economic groupings.³²⁸

While the rest of the world is tottering at the brink of another recession and countries are becoming isolationist and protective of their industries and economies, the Australian government sees fit to subject Australia and the Australian economy to this unmandated, regressive, inflationary and simply unnecessary tax.³²⁹

The Australian economy will be damaged relative to the rest of the world at a time when economic uncertainty means that most other

³²⁴ Dr Josef Krivanek, unaccepted submission, received 20 September 2011, 3.08PM.

³²⁵ Ms Jenny Holmes, unaccepted submission, received 20 September 2011, 2.07PM.

³²⁶ Mr Nigel Cornelius, unaccepted submission, received 18 September 2011, 2.06PM.

³²⁷ Mr and Mrs Geoff and Colleen Moule, unaccepted submission, received 18 September 2011, 2.03PM.

³²⁸ Mr Michael Bishop, unaccepted submission, received 18 September 2011, 2.02PM.

³²⁹ Leslie and Billie Baker, unaccepted submission, received 18 September 2011, 2.02PM.

economies will not act in concert with regard to climate change strategies.³³⁰

Whilst a believer that the world community has contributed to climate change, I am absolutely against Australia setting out alone to put a price on carbon; to do so in advance of the major world economies having set in place nationally co-ordinated carbon management policies, we will be severely undermining our national interest and competitiveness within international markets.³³¹

A Carbon Tax at this time will severely damage our economy at a time when most countries in the world are suffering economically and we are only not suffering because of the Resources boom. Our manufacturing and retail sectors are really struggling to survive. ... Many industries are shedding jobs and manufacturers will move off shore as they will not be able to compete against cheap Asian labour. These countries do not have a Carbon Tax nor intend to implement one.³³²

It is clear that this carbon tax will impose a significant burden on Australian industry which our competitors do not face. It will be detrimental to competitiveness and there is no escaping that this will reduce profitability and cost jobs in small and large businesses alike, sending jobs, investment and emissions offshore leaving only a misplaced sense of green pride behind.

³³⁰ Dr S.E. Chen, unaccepted submission, received 17 September 2011, 3.03PM.

³³¹ Mr Robert Hobart, unaccepted submission, received 17 September 2011, 1.14PM.

³³² Ms Virginia van den Heuvel, unaccepted submission, received 18 September 2011, 1.44PM.

10. Fuel + fridges = more than 500

Summary of findings

The Government continues to mislead Australians about the extent of impact of its carbon pricing mechanism or carbon tax through suggestions the impact will be restricted to around 500 companies who are the largest emitters of greenhouse gases.

It is clear from evidence provided to this inquiry that cost impacts will be borne indirectly by all Australians through costs being passed on, most notably as a result of increased power and transport costs, as discussed elsewhere in this minority report.

However, it is also clear from evidence provided that the number of companies directly affected will be far, far greater than the stated 500 as a result alone of both changed fuel rebate and excise arrangements and an 'equivalent carbon price' applied by this legislative package to synthetic greenhouse gases used in refrigerants.

500 claim

The Government has frequently claimed that around 500 companies (or entities) will be directly liable under the carbon pricing mechanism introduced by this legislative package, including throughout the Prime Minister's second reading speech on 13 September 2011. This was confirmed in evidence provided to this inquiry.

Mrs GASH: I cannot seem to find anywhere exactly how many companies are actually going to be paying the carbon tax. I hear various reports. Can somebody clarify it for me?

Mr Comley: I will let Dr Kennedy answer in a second. The government has said that around 500 are intended to be covered. It is important to make it clear that it is not as though the bill targets a number of companies; it sets a threshold of a certain number of emissions before you come into the system. So things like how the economy changes over time will impact on the number of people in the system. The current estimate is around 500.

...

Dr Kennedy: Of the around 500 business that we expect to be covered under the carbon-pricing mechanism – these are businesses that will have to acquit a liability, if you like, under that mechanism and, as we were discussing earlier with Mr Windsor, there is an effective carbon price also being applied through the fuel tax arrangements – around 60 businesses are primarily involved in electricity generation, around 100 in coal or other mining, around 40 are natural gas retailers, around 60 are primarily involved in industrial processes such as cement, chemicals and metal processing, around 50 operate in a range of other fossil fuel intensive sectors and around 190 operate in the waste disposal sector.³³³

The number of facilities or sites that will be subject to this liability remains unclear, with the Government failing to answer the following question, taken on notice, seeking this information.

Senator BIRMINGHAM: Back to Mrs Gash's 500 companies and the facilities and sites covered within that, is there an estimate of the total number of facilities or sites that are picked up and trip the threshold within the 500 companies?

Mr Comley: We will have to take that one on notice.³³⁴

Evidence provided to the inquiry, however, makes it clear that the number of businesses directly affected will be far greater than 500 as a result of two changes in particular – changes to fuel rebates and excise arrangements, both in these bills and forecast by the Government in 2014, and a carbon tax equivalent applied to synthetic greenhouse gases used as refrigerants. Additionally, all businesses will suffer directly increased costs of electricity and transport.

Off-road fuel

DCCEE made clear that a carbon price will apply to all off-road use of fuel.

Dr Kennedy: On the off-road use of liquid fuels, there is an effective carbon price to be applied. In the case of aviation, it will be applied through excise adjustments. In the case of other fuels,

³³³ Dr Steven Kennedy, Deputy Secretary, Department of Climate Change and Energy Efficiency, Committee Hansard, 21 September 2011, pp. 13-14.

³³⁴ Senator Simon Birmingham; Mr Blair Comley, Secretary, Department of Climate Change and Energy Efficiency, Committee Hansard, 21 September 2011, p. 15.

fuel offset changes will apply an effective carbon price to off-road use of those fuels.³³⁵

Coalition members sought clarity surrounding just which industry uses would be affected

Senator CORMANN: I am keen to get from you a list of all the things that you envisage for off-road fuel use which will have an effective carbon price imposed on them through this legislation, whether it is by implication or by explicit inclusion.

Mr Gallagher: Other than those exempted industries, all other industries will be impacted.

Senator CORMANN: Such as?

Mr Gallagher: Mining, construction –

Ms Quinn: Rail, shipping, aviation –

Senator CORMANN: So, on notice, you are going to give us an exhaustive list of everything that you envisage –

Mr Gallagher: Yes.³³⁶

The list provided is:

Mining;
Manufacturing;
Electricity, gas, water and waste services;
Construction;
Wholesale trade;
Retail trade;
Accommodation and food services;
Transport, postal and warehousing;
Information media and telecommunications;
Financial and insurance services;
Rental, hiring and real estate services
Professional, scientific and technical services;
Administrative and support services;
Public administration and safety;
Education and training;
Health care and social;

³³⁵ Dr Steven Kennedy, Deputy Secretary, Department of Climate Change and Energy Efficiency, Committee Hansard, 21 September 2011, p. 11.

³³⁶ Senator Mathias Cormann; Mr John Gallagher, Unit Manager, Indirect Tax Division, Treasury; Ms Meghan Quinn, General Manager, Macroeconomic Modelling Division, Treasury, Committee Hansard, 21 September 2011, p. 12.

Arts and recreation services; and
Other services and other (but noting that agriculture, forestry and fishing industries are excluded in the legislation)³³⁷

AMEC were among submitters who identified the discrepancy between the stated and actual impacts:

Fuel credit reduction will capture many small to medium companies that are not in the Government's "Top 500 Polluters" group because they will be effectively paying a carbon tax.³³⁸

This was likely to have a significant negative impact on future investment in an industry of major importance to the Australian economy.

Proposed phased reductions in the diesel fuel credit from 6.21 c/L to 6.858 c/L (in 2014-2015) and thereafter additional six monthly adjustments, is a significant investment disincentive for mineral exploration and mining companies that are funding operations from limited equity.³³⁹

The extent of the hit through fuel tax to businesses across a range of sectors was canvassed by the Minerals Council of Australia:

The second aspect of the carbon tax proposal I want to talk about is the fact that it will not be limited to 500 big polluters. The new fuel tax legislation provides, in the government's own words, an effective carbon price on business through the fuel tax system. That will raise, on our estimates, about \$16 billion by 2020. There is no threshold on the use of fuel before that tax cuts in ... there are 60,000 firms in this country that will be paying 6c a litre extra on fuel from 1 July 2012. That is 22,000 in construction, 5,350 in manufacturing, 1,500 in mining, thousands of tourism operators, and several hospitals and large healthcare providers. We look forward to the government acknowledging that there is a direct cost from this scheme not on 500 big polluters but on more than 60,000 businesses, from the very smallest to the largest.³⁴⁰

³³⁷ The Treasury, Submission 66, p. 2.

³³⁸ Association of Mining and Exploration Companies (AMEC), *Submission 8*, p. 4.

³³⁹ Association of Mining and Exploration Companies (AMEC), *Submission 8*, p. 4.

³⁴⁰ Mr Brendan Pearson, Deputy Chief Executive, Minerals Council of Australia, Committee Hansard, 27 September 2011, pp. 71-72.

On-road fuel

The Australian Trucking Association (ATA) gave evidence regarding the extent of the impact to their operators of the changes, especially the Labor Government's planned future changes to heavy on road vehicles.

The ATA and its members have welcomed the industry's two year exemption from carbon pricing. The ATA considers the trucking industry should be **permanently exempt**, because ... *Trucking businesses are predominately small businesses ...* the planned changes to the fuel tax credits system will impose an effective carbon price on every one of Australia's 47,000 trucking businesses. 85 per cent of these businesses are small businesses with fewer than five employees. They are no different to the other small businesses that are permanently exempt from the carbon price, except they happen to operate trucks weighing more than 4.5 tonnes. ³⁴¹

The ATA believes operators will mostly have to absorb these costs.

Mrs GASH: Having a number of these small businesses in my area, how difficult will this be in your view for these small businesses to pass on this carbon tax?

Mr St Clair: Exceptionally difficult, and it has been proven over the last few years as fuel prices have fluctuated. We have certainly seen them come down over the last five years, but prior to that most operators where possible were able to put in place fuel levies for their customers. We have found it is increasingly difficult, in the advice given to us by operators across Australia, being able to pass those costs on now. That is making it very difficult for those who operate not only in the cities but also in regional, rural and remote Australia to be able to claw back those costs.

Mrs GASH: Is it not just the carbon tax, are you also talking about administration costs?

Mr St Clair: It will be a whole gamut of costs. At the end of the day we are a service industry. We sell our products which are servicing a nation that likes to shift a lot of freight over long distances as efficiently and effectively as they can. When you consider that 80 per cent of the freight happens around the metropolitan areas of the cities and less than a third of the freight is interstate – the balance is intrastate – you have got an enormous

³⁴¹ Australian Trucking Association, *Submission 27*, p. 3.

amount of small business operators that are subcontracting for the larger logistics companies in Australia.³⁴²

The ATA further suggests that the planned inclusion from 2014-15 of on-road fuel should not proceed.

Senator BIRMINGHAM: Mr St Clair, the Treasury modelling that was released just last week updated the government's policy scenarios, and stated:

The Government policy scenario includes an effective carbon price on fuel used by heavy on-road transport from 2014-15 ...

Accordingly, it is the industry's expectation that government policy is emphatically to proceed down that path, isn't it?

Mr St Clair: It is. Any submission we have made following our policy development, as far as our council is concerned, is that we think we should be exempt. And we think we should be exempt from any future tax because we are embracing the new technologies, the new, cleaner engines and cleaner fuels as they become available, providing they cover those three criteria.

Senator BIRMINGHAM: I am sure there are good intentions for the environment in there, but in the end, if you boil it down, there is already a significant cost pressure for industry to be extremely efficient, isn't there?

Mr St Clair: There is, as the price of fuel goes up.³⁴³

The industry cites significant environmental gains made already through developments achieved without having been driven by the claimed incentive of a carbon price.

The ATA's recent environmental credentials report shows the industry's greenhouse gas emissions fell 35 per cent per billion tonne kilometres between 1990 and 2011, as a result of improvements in engine technology and the use of safer trucks with greater capacity.³⁴⁴

³⁴² Mr Stuart St Clair, Australian Trucking Association, *Proof Committee Hansard*, Canberra, 26 September 2011, pp. 24-25.

³⁴³ Mr Stuart St Clair, Australian Trucking Association, *Proof Committee Hansard*, Canberra, 26 September 2011, p. 26.

³⁴⁴ Australian Trucking Association, *Submission 27*, p. 3.

Extent of fuel impacts

The horticultural industry has given evidence about the impact on them of increased fuel costs under this legislation.

...the introduction of the proposed Fuel Tax Legislation will place further pressure upon existing farm profit margins through increases in the cost of electricity (a major cost for on-farm irrigation and packing shed operations which has already seen 10% increase recently), fertilizer, fuel and crop protectants ³⁴⁵.

Refrigerants

Refrigerants Australia has provided evidence about the equivalent carbon price, or carbon tax equivalent, to be applied to synthetic greenhouse gases that are largely used as refrigerants:

The tax is to be implemented under the existing *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* (OPSGGMA) ...

The tax will be levied at the following levels:

2012-13: \$23 per tonne CO₂e

2013-14: \$24.15 per tonne CO₂e

2014-15: \$25.40 per tonne CO₂e

After 1 July 2015, the carbon price will be the benchmark average auction price.

Industry estimates indicate that this tax will raise in excess of \$270 million in 2012.

This figure is a multiple of the current industry turnover, and represents a price increase on (sic) these substances of 300% to 500%.³⁴⁶

Refrigerants Australia has provided information to Coalition members of the committee that 929 entities are currently licensed under the OPSGGMA and will effectively pay the carbon tax. Of these 929 additional entities, Refrigerants Australia says 70 per cent would be classified as small to medium enterprises.

Coalition members of the committee are astonished at this credible suggestion that the number of entities to be directly hit by this legislative package is on this basis alone approximately three times the number peddled by the Government. That, of

³⁴⁵ Bundaberg Fruit & Vegetable Growers, *Submission 10*, pp. 1-2.

³⁴⁶ Refrigerants Australia, *Submission 69*, p. [1].

course, if before the tens of thousands of businesses facing higher fuel costs are included.

11. Farcical inquiry shows contempt

Process abused from the beginning

The establishment of this Joint Select Committee, and the rejection of Coalition moves to refer this legislation to the usual, portfolio-specific Senate Standing Committees, represents a significant departure from usual practice.

The Senate's own website states:

As a house of review, the Senate subjects legislation to additional scrutiny. Each bill that comes before the Senate is examined by the Scrutiny of Bills Committee ... The Selection of Bills Committee considers all bills before the Senate to identify any which are complex or controversial or which senators have indicated warrant further examination by a standing committee ... Bills are usually referred to a legislative and general purpose standing committee which has responsibility for that particular portfolio area.³⁴⁷

This legislation is certainly sufficiently complex and controversial to warrant referral to these committees but, extraordinarily, the Scrutiny of Bills Committee – dominated by the Labor-Greens proponents of this legislation – rejected Coalition moves to have it so referred.

This committee – the Joint Select Committee on Australia's Clean Energy Future Legislation – was similarly dominated by the Labor-Greens proponents of the very legislation into which it was established to inquire.

Using their majority, the Labor and Greens members scrapped parliamentary convention for a Government-nominated Chair to be offset by an Opposition-nominated Deputy Chair. That is, having elected Labor MP Anna Burke to chair the inquiry, the Labor and Greens members together with an Independent supporter of the legislation voted 8 to 5 to install Greens Senator Christine Milne, rather than a Coalition Opposition member, as Deputy Chair.

Given Senator Milne is not only a proponent but was a key architect of Labor's carbon tax, her appointment makes a mockery of any claims this inquiry has been undertaking an honest assessment of the 19 carbon tax bills.

³⁴⁷ Senate Brief No 8, *The Senate and Legislation*, May 2011, <http://www.aph.gov.au/senate/pubs/briefs/brief08.htm> accessed 5 October 2011.

Repeating past mistakes

The Gillard Government, by establishing and consenting only to a farcically brief inquiry into substantial legislation of great consequence, has repeated mistakes of the former Coalition Government that Labor Senators once criticised when in Opposition.

The following statements are from the Opposition Senators' Report from the 2005 Senate inquiry into the *Workplace Relations Amendment (Work Choices) Bill 2005* but are just as applicable to this inquiry.

It is outrageous that only one week was allowed for the committee to receive submissions ... To make matters worse, hearings were scheduled in the week following the closing date for submissions, which did not allow enough time for the committee to properly consider the more than 5000 submissions received.

In placing an unreasonable limit on the time for this inquiry, the Government has shown its disregard for the important scrutiny role performed by the Senate and its committees. It has shown no interest in taking this inquiry to the people and involving them in the work of the committee.³⁴⁸

Once criticised, now endorsed

Coalition members of this committee understand the former Coalition Government made some mistakes for which it was criticised and ultimately punished at the ballot box in 2007. We are astonished that Labor members are now accepting of procedure they once criticised.

It is all the more surprising that the Chair has actually sought to publicly associate this inquiry's proceedings with this past inquiry so criticised by Labor at the time:

We are having an in depth inquiry into the legislation. It exactly mirrors what was done when the Howard Government introduced the Work Choices legislation and I think we'll get a thorough inquiry into the bills. ... Parliamentary committees have a responsibility to scrutinise bills and we are not going to shy away from the Parliamentary responsibilities to scrutinise bills, so we will go through the process in a thorough manner, exactly how the Howard Government introduced the Work Choices legislation.³⁴⁹

³⁴⁸ Senate Standing Committee on Employment, Workplace Relations and Education – Legislation Committee report on the *Workplace Relations Amendment (Work Choices) Bill 2005* [Provisions], pp. 47-48.

³⁴⁹ Ms Anna Burke MP, Chair, Joint Select Committee on Australia's Clean Energy Future

Clearly, the approach advocated by Ms Burke and claimed without foundation to be 'thorough' (c.f. this minority report's criticism of the inquiry's conduct) was strongly criticised by Labor in 2005. We acknowledge these past criticisms and similarly strongly criticise the Labor-Greens approach now. While we have learned from our mistakes, Labor now endorses and repeats them.

The comparison with the treatment of the Work Choices legislation is not entirely apt, however, in that the Work Choices legislation was a single bill amending a single Act, whereas this is a package of 19 bills creating new and significant Acts – including the implementation of several new taxes and charges, not least of which is the carbon tax, and the establishment of several new agencies – and amending several other existing Acts but also with further legislation already foreshadowed as discussed below. If a more thorough and considered inquiry was warranted into the Work Choices legislation, it is only more warranted into this sweeping legislative package.

Limited time, most submissions not accepted

This Joint Select Committee – dominated by the Labor and Greens proponents of the legislation into which it is inquiring – allowed just a week for the committee to receive submissions, determining at its first meeting on Thursday 15 September that it would advertise for the first time on Saturday 17 September 2011 but with a closing date for submissions of Thursday 22 September 2011.

Hearings for this inquiry were scheduled in the week following the closing date of submissions, which did not allow the committee to properly consider the more than 4,500 submissions it received. In fact, the Labor-Greens dominated committee opted not to accept the vast majority of submissions and merely received them as 'correspondence', despite unsuccessful Coalition attempts to extend both the deadline for making submissions and the time allowed for the committee to report.

This volume of correspondence demonstrates the level of engagement and the depth of feeling Australians have in relation to the Government's policy approach on this issue, but which Labor and the Greens have effectively sought to silence as far as this inquiry is concerned.

The Coalition, in contrast, seeks to give voice to these Australians through this minority report. As detailed, to some degree throughout this report, but still constituting just a small sample of the thousands seeking to have input, those making submissions not accepted by the committee made many valid points and

have valid concerns that are not being addressed by this Labor-Greens dominated committee.

The Coalition believes the volume of correspondence, and breadth of issues of concern including some specific to particular regions, warranted further inquiry hearings and for some to be held outside of Canberra, Sydney and Melbourne. Coalition members wrote to the Chair to this effect, proposing hearings be held in at least one of Mackay in Queensland, the Illawarra region of New South Wales or Perth in Western Australia. The committee held hearings in none of these areas, or anywhere but Canberra, Sydney and Melbourne, again at least partly due to the short timeframe imposed on it.

Notwithstanding our concerns about the political timeframes and limitations placed on the inquiry, Coalition members participating wish to express our thanks to the secretariat staff who delivered professional assistance to all members of the committee against all the pressures applied to them.

Past inquiries no substitute

It is disingenuous of the majority committee to suggest that past inquiries into the science of climate change and climate change mitigation policy³⁵⁰ in some way obviate the need for a thorough inquiry into this legislative package; they don't. This would be the case even without bills that deal with measures the Government has sought to introduce as part of single (though as yet incomplete, as discussed below) legislative package that includes not only carbon pricing measures but also taxation and so called 'compensation' or industry assistance measures.

This farcical 'shotgun' abbreviated committee inquiry is the only Parliamentary committee inquiry into these 19 bills.

Some – but not all – of these 19 bills were released for the first time, as 13 draft exposure bills only, on 28 July 2011. Even the majority report acknowledges that, as a result of this exposure draft consultation by DCCEE, the bills were amended to take account of concerns raised with DCCEE about their content. This is only further cause, rather than less, for proper Parliamentary scrutiny of and inquiry into this new and already subsequently amended legislation.

DCCEE consultation

Such was the short timeframe allowed for submissions that this committee took the extraordinary measure of effectively accepting submissions made outside of

³⁵⁰ Under the heading 'Previous parliamentary inquiries', from p. 6, Chair's Draft.

the normal parliamentary committee scrutiny process, through DCCEE's consultation on its exposure draft legislative package of 13 bills.

Even then, and despite DCCEE's consultation closing on 22 August 2011 and an undertaking to this committee to post submissions online no later than 19 September 2011, submissions received by DCCEE were only made publicly available – including to this committee – on its website from 20 September 2011, the day before the committee inquiry's first public hearing.

Submissions ignored

Even given the limited time afforded, many organisations and even some individuals did manage to prepare submissions containing detailed commentary and/or specific recommendations relating to the legislation's content. These include the Energy Supply Association of Australia, the National Lime Association of Australia, Australian Petroleum Production and Exploration Association Limited, the Association of Mining and Exploration Companies, Bundaberg Fruit and Vegetable Growers Co-operative Limited, The Climate Institute, WWF-Australia, Origin Energy Limited, the Australian Aluminium Council, AGL Energy Limited, the Cement Industry Federation, the Australian Industry Greenhouse Network, Mr Paul Rodgers, the Australian Network of Environmental Defenders Offices, Mrs K Hartmann, the Magnetite Network, the Law Council of Australia and the National Farmers' Federation.

The majority of those making such detailed and pertinent submissions were never called to appear at an inquiry hearing, and overwhelmingly the specific suggested amendments have not even been canvassed in the majority report presented by the Labor-Green proponents of the legislation.

Some of the commentary and recommendations relating to the legislation, and ignored by the majority, is addressed herein below.

Treasury modelling

The Government publicly committed for its Treasury modelling of a carbon price to be publicly released, both upon completion of a scheme's design and upon release of the legislative package.

... when we've designed the scheme we will produce the modelling...³⁵¹

... when we release the package we'll also release modelling that will have price projections at different scenarios.³⁵²

³⁵¹ Wayne Swan, Treasurer, interview on 702 ABC Sydney, 11 May 2011.

Despite these promises to release it when the Bills were released, the Treasurer publicly drip feeding aspects of it days before the first hearing of the committee and numerous calls for it to be released in a timely way, updated Treasury modelling reflecting the actual starting price of \$23/tonne and other key elements of this package was released only on the morning of the first hearings into this inquiry, just minutes prior.³⁵³

Its late release meant Committee members were unable to consider meaningfully the updated Treasury modelling prior to questioning Treasury officials who were among those appearing at the first hearing and who therefore had to be subsequently recalled to a later hearing.

Massive legislative reform

As canvassed above, the legislative package subject to this inquiry is 19 bills constituting more than 1100 pages of new legislation. Yet even these 19 bills are already known not to constitute the entire legislative package proposed by the Government, as made clear in an inquiry hearing by DCCEE Secretary Blair Comley.

Senator BIRMINGHAM: Do the 19 bills before us constitute the entire legislative package?

Mr Comley: No. Well, in terms of the package that was announced as part of the Clean Energy Future there is a bill that will be forthcoming on the Clean Energy Finance Corporation and there is also a bill that will be forthcoming on ARENA, the Australian Renewable Energy Agency.

Senator BIRMINGHAM: When will those two bills be forthcoming?

Mr Comley: It is still to be determined.³⁵⁴

Many submitters join the Coalition in expressing their dismay at the timelines provided to participate in this inquiry and make a meaningful contribution:

AMEC also expresses its complete dissatisfaction in the manner in which this step-change legislation has been introduced. The timelines throughout the legislative consultation process have been extremely short, which has not allowed AMEC and its

³⁵² Greg Combet, Minister for Climate Change and Energy Efficiency, doorstep media interview, 17 May 2011.

³⁵³ Ms Anna Burke MP, Chair, Joint Select Committee on Australia's Clean Energy Future Legislation, Proof Committee Hansard, 21 September 2011, p. 2.

³⁵⁴ *Proof Committee Hansard*, Canberra, 21 September 2011, p. 6.

members any reasonable time to properly consider the finer detail of the legislation. ³⁵⁵

BFVG is also disappointed in the amount of time granted (six days including a weekend) by Government to provide submissions in regards to the proposed suite of legislation (approximately 1100 pages) under the banner of Carbon Tax. BFVG would have thought that such an important suite of legislation deserved a longer time to enable both industries affected and the general community to provide in-depth submissions and encourage worthwhile debate. ³⁵⁶

³⁵⁵ Association of Mining and Exploration Companies (AMEC), *Submission 8*, p. 3.

³⁵⁶ Bundaberg Fruit & Vegetable Growers, *Submission 10*, p. 3.

12. Conclusion

Labor's carbon tax is the wrong policy, for the wrong country at the wrong time:

In the theoretical world, the penalty system has a lot of merit. In the context of Australia, with the market structures that it has, in our view the penalty system is precisely the wrong way to go ... In the economic reality of the business world that we deal with day to day, the right policy has to be a blend of stick and carrot. This policy is all stick and not enough carrot.³⁵⁷

To date, ETS mechanisms have proven only partially effective in encouraging reductions in greenhouse gas (GHG) emissions. This is due to the unpredictability and volatility they inherently create in the price of carbon, which discourages the significant, long-term investments in energy efficiency and low carbon technologies required to materially impact GHG emissions levels.³⁵⁸

I find it impossible to support this current legislation. It does not make sense. It is economically damaging. It is an exercise in futility. A better way is possible and it is a great shame, going to the point, that better ways were not explored.³⁵⁹

Coalition members restate our belief that creating a giant new bureaucracy with costs approaching \$400 million over the forward estimates so as to impose a multi-billion dollar new tax that will drive up the costs of everything in Australia but will not drive down Australia's emissions is clearly the wrong approach.

We believe there is a better way and recommend that the bills not be passed.

³⁵⁷ Mr Stuart Allinson, Director, Exigency Management Pty Ltd, Committee Hansard, 27 September 2011, p. 15.

³⁵⁸ ExxonMobil Australia Pty Ltd, *Submission 38*, p. 3.

³⁵⁹ Mr John Harry Pegler, Chairman, Australian Coal Association, Committee Hansard, 27 September 2011, p. 68.

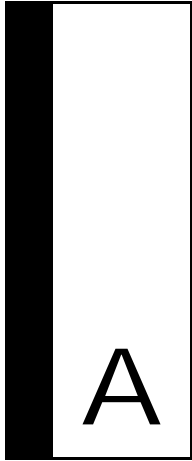
Senator Simon Birmingham

Senator Mathias Cormann

Mr George Christensen, MP

Ms Joanna Gash, MP

Mr Tony Smith, MP



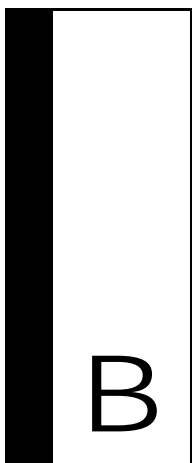
Appendix A - Submissions

Submissions to the Inquiry into Australia's clean energy future

No.	Provided by
1	Energy Supply Association of Australia
2	Australian Industry Group
3	Australian Cane Farmers Association Ltd
4	National Lime Association of Australia
4.1	Supplementary submission, National Lime Association of Australia
5	Australian Petroleum Production & Exploration Association Limited
6	Mr RV and Mrs PJ Barbero
7	Kevin Butler, State Secretary, Democratic Labor Party
8	Association of Mining and Exploration Companies
9	Perdaman Chemicals and Fertilisers Pty Ltd
10	Bundaberg Fruit & Vegetable Growers Co-operative Limited
11	GE Energy Australia & New Zealand
12	Westpac
13	The Climate Institute
14	Institute of Public Affairs
15	Western Australian Farmers Federation (Inc.)
16	WWF-Australia

17	Qantas Airways Limited
18	Origin Energy Limited
19	Mr Richard Davis
20	CSR Limited
21	Brotherhood of St Laurence's
22	Infigen Energy
23	Bond University
24	Australian Aluminium Council
25	ATCO Gas Australia Pty Ltd
26	James Wight
27	Australian Trucking Association
28	Australian Pipeline Industry Association
29	Rio Tinto
30	AGL Energy Limited
31	Professor Charles Sampford
32	Cement Industry Federation
33	Australian Industry Greenhouse Network
34	Growcom
35	Mr Paul Rodgers
36	Australian Network of Environment Defenders Offices
37	UnitingJustice Australia
38	ExxonMobil Australia Pty Ltd
39	Australian Environment Foundation
40	Des Moore
41	Hydro Tasmania
42	Vipac Engineers & Scientists
43	Exigency Management Pty Ltd
44	Australian Dairy Industry Council

45	Clean Energy Council
46	Bus Industry Confederation
47	Australian Conservation Foundation
48	Mr Barry Golding
49	Mrs K Hartmann
50	Mr Ian Read
51	Green Cooling Association
51.1	Supplementary Submission, Green Cooling Association
52	Dr Frank Jotzo
53	Compost Australia
54	Shoalhaven City Council
55	LPG Australia
56	The Construction, Forestry, Mining and Energy Union (CFMEU)
57	MagNet - Magnetite Network
58	Australian Coal Association
59	Vestas Australian Wind Technology P/L
60	COTA Australia
61	Law Council of Australia
62	Conservation Council South Australia
63	National Farmers Federation
64	Professor Ross Garnaut
65	Uniting Care Australia
66	The Treasury
67	AMWU
68	Council of Mayors, South East Queensland
69	Refrigerants Australia
70	Department of Climate Change and Energy Efficiency



Appendix B – Witnesses

Wednesday, 21 September 2011-Canberra

Department of the Treasury

Ms Meghan Quinn, General Manager, Macroeconomic Modelling Division

Mr Graeme Davis, Principal Advisor, Business Tax Division

Mr Martin Jacobs, Acting Principal Advisor, Personal and Retirement Income Division

Mr Marty Robinson, Manager, Macroeconomic Modelling Division

Mr John Gallagher, Manager, Indirect Tax Division

Ms Rachel Thompson, Acting Senior Adviser, Business Tax Division

Mr Brian McKay, Analyst, Indirect Tax Division

Department of Climate Change and Energy Efficiency

Mr Blair Comley, Secretary

Dr Steven Kennedy, Deputy Secretary

Ms Jenny Wilkinson, First Assistant Secretary, Climate Strategy and Markets Division (CSMD)

Ms Shayleen Thompson, First Assistant Secretary, Land Division

Mr Tas Sakellaris, Assistant Secretary, CSMD

Mr Trevor Power, Assistant Secretary, CSMD

Mr James White, Assistant Secretary, CSMD

The Department of Families, Housing, Community Services and Indigenous Affairs

Ms Peta Winzar, Group Manager

Monday, 26 September 2011- Canberra

Department of the Treasury

Dr David Gruen, Executive Director, Macroeconomic Group

Ms Meghan Quinn, General Manager, Macroeconomic Modelling Division

Mr Marty Robinson, Manager, Macroeconomic Modelling Division

Professor Ian Chubb AC, Chief Scientist for Australia

Professor Bruce Chapman, Crawford School of Economics & Government, Australian National University

Dr Richard Denniss, Director, The Australia Institute

Dr John Hewson AM

Dr Frank Jotzo, Crawford School of Economics & Government, Australian National University

Australian Industry Greenhouse Network

Mr Michael Hitchens, Chief Executive Officer

Sustainable Business Australia

Mr Andrew Petersen, Chief Executive Officer

Australian Trucking Association

Mr Stuart St Clair, Chief Executive Officer

Mr Bill McKinley, National Manager, Government Relations and Communications

Australian Chamber of Commerce and Industry

Mr Greg Evans, Director, Economics and Industry Policy

Australian Conservation Foundation

Ms Claire Maries, Climate Change Campaigner

Australian Network of Environmental Defenders' Offices (by teleconference)

Ms Nicola Rivers, Director, Policy and Law Reform

Mr Michael Power, Lawyer

The Climate Institute (by teleconference)

Mr Erwin Jackson, Deputy Chief Executive Officer

World Wildlife Fund

Ms Kellie Caught, National Manager for Climate Change

Law Council of Australia, Climate Change Working Group

Mr Doug Young, Young Law

Mr Grant Anderson, Partner, Allens Arthur Robinson

Mr Graeme Dennis, Partner, Clayton Utz

Baker & McKenzie (by teleconference)

Mr Martijn Wilder, Partner

Norton Rose

Ms Noni Shannon, Special Counsel

Professor Lee Godden, Director Centre for Resources, Energy and Environmental Law, Melbourne Law School, University of Melbourne

Council of the Ageing

Ms Jo Root, National Policy Manager

UnitingCare Australia

Ms Lin Hatfield-Dodds, National Director

Ms Susan Helyar, Director of Services Development

Brotherhood of St Laurence (teleconference)

Mr Damian Sullivan, Senior Manager, Equity in Response to Climate Change

Tuesday, 27 September 2011 - Melbourne

Professor Ross Garnaut AO

Energy Supply Association

Ms Clare Savage, Interim CEO

Mr Temay Rigzin, Policy Manager

Exigency Management Pty Limited

Mr Stuart Allinson, Director,

Mr Adrian Palmer, Director,

National Lime Association

Mrs Roslyn Degaris, CEO

Mr Joel Letterer, Director of Policy and Industrial, Australian Council of Trade Unions

Mr Timothy McCauley, National Project Officer, Australian Manufacturing Workers Union

Australian Local Government Association (teleconference)

Mr Adrian Beresford-Wylie, Chief Executive

Mr John Pritchard, Executive Director, Policy and Research

Clean Energy Council

Mr Kane Thornton, Director of Strategy and Operations

Climateworks Australia

Ms Anna Skarbek, Executive Director

Mr Ken McAlpine, Executive Manager, Policy and Government Relations, Vestas Australian Wind Technology

Mr Andrew Richards, Executive Manager, Government & Corporate Affairs, Pacific Hydro

Mr David Griffin, General Manager Development, Infigen Energy

Mr Brett Wickham, Director Generation, ACCIONA

Mr Brett Thomas, Managing Director, ACCIONA Energy Oceania

Institute of Public Affairs

Mr Alan Moran, Director, Deregulation Unit

Australian Coal Association

Mr John Pegler, Chairman,

Mr Peter Morris, Director Economic Policy

Minerals Council of Australia

Mr Brendan Pearson, Deputy Chief Executive

Mr Ben Mitchell, Director, Public Affairs

Wednesday, 28 September 2011 - Sydney

Construction, Forestry, Mining and Energy Union

Mr Tony Maher, National President

LPG Australia

Mr Warring Neilson, Director Government Relations

Mr John Griffiths, Manager Policy Development

Investor Group on Climate Change

Mr Nathan Fabian, Chief Executive Officer

Westpac

Mr Didier Van Not, Executive Director, Head of Infrastructure and Utilities

Mr Geoff Roussel, Executive Director, Head of Commodities, Carbon and Energy

Ms Emma Herd, Director, Emissions and Environment

AGL Energy

Mr Tim Nelson, Head of Economic Policy and Sustainability

Mr Simon Kelley, Head of Carbon Price Implementation

Green Cooling Association

Mr Brent Hoare, Executive Director

Mr Tim Edwards, Member

Capricorn Enterprise (teleconference)

Ms Mary Carroll, Chief Executive Officer

Mr Neil Lethlean, Technical Advisor

Shoalhaven City Council

Mr Rob Donaldson, Assistant General Manager

Magnetite Network (teleconference)

Ms Megan Anwyl, Executive Director

Mr Bill Mackenzie, Managing Director

The Western Australian Farmers Federation Inc (teleconference)

Mr Alan Hill, Director

Mr Michael Norton, President

Mr Dale Park, Senior Vice President



Appendix C – Exhibits

No.

1. LPG Australia Discussion Paper (CONFIDENTIAL)
2. LPG Australia Submission to the Senate Select Committee on the Scrutiny of New Taxes (provided by LPG Australia)
3. Australian Research Council Federation Fellow School of Economics and School of Political Science and International Studies, University of Queensland, 19 August 2011 (provided by Professor John Quiggin)
4. Carbon Pricing and Equity, Australian Research Council Federation Fellow School of Economics and School of Political Science and International Studies, University of Queensland (provided by Professor John Quiggin)
5. ElectraNet - AEMO Joint Feasibility Study, South Australian Interconnector, Draft Report, November 2010 (provided by Mr Ken McApline, Vestas Australian Wind Technology P/L)
6. Australian Conservation Foundation. Creating Jobs-Cutting Pollution, The Roadmap for a Cleaner, Stronger Economy (provided by Ms Claire Maries, Australian Conservation Foundation)
7. AGL – Carbon taxes, toxic debt and second round effects of zero compensation: the power generation meltdown scenario, April 2011 (provided by Mr Paul Simshauser and Mr Tim Nelson)
8. Climate Works Australia, Low Carbon Growth Plan for Australia, Impact of the Carbon price Package, August 2011 (provided by the Ms Anna Skarbek)

- 9 Climate Works Australia. Low Carbon Growth Plan for Greater Geelong, May 2011 (provided by Ms Anna Skarbek)
- 10 Climate Works Australia, Low Carbon Growth Plan for Greater Geelong, Report Summary, May 2011 (provided by Ms Anna Skarbek)
- 11 Crawford School Dialogue – Australia’s carbon Price: Good Policy or Not, 5 September 2011 (provided by Professor Bruce Chapman)
- 12 Shoalhaven City Council, PowerPoint presentation regarding Carbon Pricing (provided by Mr Rob Donaldson)
- 13 The Garnaut Review 2011, Australia in the Global Response to Climate (provided by Professor Ross Garnaut)
- 14 Garnaut Climate Change Review update 2011, Progress towards effective global action on climate change (provided by Professor Ross Garnaut)
- 15 Garnaut Climate Change Review update 2011, Global emissions trends, update Paper 3 (provided by Professor Ross Garnaut)
- 16 The Garnaut Climate Change Review (provided by Professor Ross Garnaut)



Appendix D – Amendments made since the exposure draft bills

Issue	Description of changes to legislation	Reference
Objects of the mechanism	<p>The objects of the mechanism now include:</p> <ul style="list-style-type: none">▪ supporting the development of an effective global response to climate change, consistent with Australia’s national interest in ensuring that average global temperatures increase by not more than 2 degrees Celsius above pre-industrial levels; and▪ putting a price on greenhouse gas emissions in a way that encourages investment in clean energy, supports jobs and competitiveness in the economy and supports Australia’s economic growth while reducing pollution.	<i>Clean Energy Bill, clause 3</i>
	<p>Reasons for changes: <i>To refer more explicitly to carbon pricing and the commitment reflected in the Copenhagen Accord and Cancun Agreements that the increase in global temperature should be below 2 degrees Celsius.</i></p>	
Carbon budgets	<p>The legislation now includes a definition of a ‘carbon budget’, being the total number of net Australian emissions over a specified time period. The legislation explicitly states that the Climate Change Authority can cover the issue of whether there should be any changes to Australia’s carbon budgets as part of its reviews of the mechanism. In setting pollution caps, the Minister must have regard to the most recent report of the Climate Change Authority that dealt with carbon pollution caps and carbon budgets.</p>	<i>Clean Energy Bill, clauses 5, 14(2)(b), 288(1)(b) and 293(4)(b)</i>
	<p>Reasons for change: <i>To provide greater clarity about what ‘carbon budgets’ mean and how they are taken into account by the Minister and the Climate Change Authority.</i></p>	

Issue	Description of changes to legislation	Reference
International commitments	In setting carbon pollution caps, the Minister may have regard to undertakings relating to the reduction of greenhouse gas emissions, that Australia has given under international climate change agreements. The Climate Change Authority must have regard to such undertakings in conducting its periodic reviews of the level of carbon pollution caps.	<i>Clean Energy Bill, clauses 14 and 289</i>
<p>Reasons for change: <i>To clarify that international commitments which do not have the status of legally binding international obligations, such as the Copenhagen Accord and Cancun Agreements, are relevant matters for consideration in the process for setting carbon pollution caps.</i></p>		
Mandatory designated joint ventures (JVs)	A JV is a 'mandatory designated JV' where two or more persons (whether or not they are JV participants) share operational control of the facility, but no particular person has the greatest authority to exercise operational control. The exposure draft legislation was restricted to situations where only JV participants shared operational control of a facility.	<i>Clean Energy Bill, clause 65</i>
<p>Reasons for change: <i>To reduce impediments to carbon price pass through in existing contracts by applying liability to each of the JV participants. The potential impediments to price pass through apply equally in situations where JV participants share operational control and where non-participants (for example, a contracted operator) have a share in operational control.</i></p>		
If a mandatory designated JV ceases to exist after 1 July 2012, and it would be reasonable to expect that the JV would otherwise have been a liable entity, then the participants must jointly notify the Regulator in writing within 30 days of that occurring.		<i>Clean Energy Bill, clause 66(4)</i>
<p>Reasons for change: <i>To ensure that the Regulator is made aware of JVs that cease to exist, and enables the Regulator to carry out its compliance and enforcement functions.</i></p>		
Declared designated JVs (formerly voluntary designated JVs)	Under the exposure draft bill, a declaration of a voluntary designated JV was restricted to situations where the operator of the facility is not a participant in the JV. This restriction has been removed.	<i>Clean Energy Bill, clause 67</i>
<p>Reasons for changes: <i>To provide flexibility for JVs to manage their emissions obligations. Many JVs have one of the JV participants as an operator, and disallowing a declared designated JV in this situation would be unduly restrictive.</i></p>		

Issue	Description of changes to legislation	Reference
	Under the exposure draft bill, a voluntary designated JV may have unintentionally included JVs which were also mandatory designated JVs. The bill as introduced provides that it is a condition of being a declared designated JV is that it is not a mandatory designated JV.	<i>Clean Energy Bill, clause 67</i>
	Reasons for change: <i>To remove overlap, and any resulting uncertainty, in the treatment of mandatory and declared designated JVs.</i>	
	Under the exposure draft bill, a voluntary designated JV could not include a foreign person. This restriction has been removed.	<i>Clean Energy Bill, clause 67</i>
	Reasons for change: <i>To address stakeholder concerns that the restriction, intended to address the difficulty of enforcing obligations by foreign entities, would preclude many JVs. Enforcement will be addressed by new provisions on revocation of declarations in cases of default, and excluding participants with an unsatisfactory compliance record from future JV declarations.</i>	
	Among the criteria applied by the Regulator in making a declaration of a designated JV, participants with an unsatisfactory record of compliance under the Act and associated provisions (including the NGER Act) may be excluded from future JV declarations.	<i>Clean Energy Bill, clause 70(3)(c)</i>
	Consent for a revocation of a declaration of a declared designated JV requires the consent of the <i>current</i> operator of the facility.	<i>Clean Energy Bill, clause 71</i>
	JV participants or former participants must jointly notify the Regulator in writing if the declared designated JV ceases to pass the JV declaration test. Notice should be given within 30 days of the cessation.	<i>Clean Energy Bill, clause 71A</i>
	Where liability is transferred from a facility operator to JV participants under a declared designated JV, the statutory requirement for the operator to guarantee the payment of any unit shortfall charges and late payment penalties incurred by a JV participant has been removed.	<i>Clean Energy Bill, clause 139</i>
	Reasons for changes: <i>To address stakeholder concerns about practical compliance and provide additional clarity to liable entities.</i>	
	If payment of a unit shortfall charge by a participant in a declared designated JV is overdue by more than 3 months, the Regulator must notify all of the participants and revoke the declaration from the start of the next 1 July. This means that liability will revert to the person with operational control of the facility (unless the JV participants apply to the Regulator for a new declaration which excludes the defaulting participant).	<i>Clean Energy Bill, clause 72</i>

Issue	Description of changes to legislation	Reference
	<p>Reasons for changes: To enable the Regulator to rectify a situation of default by a participant in the declared designated JV, and prevent the possibility of default for an unlimited time period, which may otherwise result from removal of the statutory guarantee provision in clause 139 of the exposure draft bill.</p>	
	<p>Provisions on designated JV declarations have been modified to enable a declaration to start on any day of the financial year in which the declaration was made, so long as the parties consent to the date.</p>	Clean Energy Bill, clause 71
	<p>Reasons for changes: To provide additional flexibility in the making of applications by JV participants and processing of those applications by the Regulator.</p>	
	<p>The amendments clarify the start dates for participating percentage determinations, which set out how liability is allocated to JV participants. The first determination must start on the same day as the designated JV declaration takes effect. Subsequent 'replacement determinations' may come into force on a date specified by the applicants, provided the start date occurs in the financial year in which the determination is made or in the next financial year.</p>	Clean Energy Bill, clause 78A
	<p>Reasons for changes: To give JV participants greater flexibility around the timing of their applications, whilst ensuring that the time period covered by the initial determination and any replacement determinations is continuous.</p>	
Liability transfer certificates (LTC)	<p>The Regulator may issue LTCs that start on a specified date, which includes a date in the future, but not later than 30 June of the following financial year. This mirrors the changes for JV declarations under clause 72.</p>	Clean Energy Bill, clause 88
	<p>Reasons for change: To increase flexibility for the management of compliance obligations and reduce timing pressure for the processing of applications on the Regulator.</p>	
Natural gas	<p>The entity liable for natural gas supplied from a pipeline (when no OTN is quoted) is the 'natural gas supplier', rather than the 'natural gas retailer', as proposed in the exposure draft legislation.</p>	Clean Energy Bill, clause 33
	<p>The distinction between distribution and transmission pipelines, proposed in the exposure draft legislation, has been removed.</p>	
	<p>Reasons for changes: To avoid difficulties in defining a 'natural gas retailer', including unintended consequences of referring to retailers licensed under state legislation. Consultation with industry revealed that the distinction between distribution pipelines and transmission pipelines is not always clear cut.</p>	

Issue	Description of changes to legislation	Reference
	If the Regulator makes, alters or removes an entry on the OTN Register, then it must notify all natural gas retailers currently listed on the OTN Register of the change.	<i>Clean Energy Bill, clause 45</i>
	Reasons for changes: <i>To provide a simple system for alerting natural gas suppliers to OTN changes, helping them to reduce their compliance burden and risk of inadvertently breaching OTN rules.</i>	
	Entities responsible for a 'large gas consuming facility' that used natural gas with potential greenhouse gas emissions of 25,000 tonnes CO ₂ -e or more in 2010-11 or a later financial year will be liable entities. Quotation of an OTN for natural gas supplies used in such facilities will be mandatory, rather than voluntary, as proposed in the exposure draft legislation.	<i>Clean Energy Bill, clause 20, 21, 22, 23, 35, 55A, 55B and 56</i>
	Reasons for changes: <i>To ensure consistent treatment of large facilities, and to improve carbon price pass-through to large end-users of natural gas.</i>	
	A natural gas supplier must accept an OTN quotation for natural gas which is used as a feedstock or to manufacture CNG, LNG or LPG which enters the excise system. Acceptance of a quotation in these circumstances was voluntary unless a contract for the supply of natural gas was in force on the date of Royal Assent.	<i>Clean Energy Bill, clauses 57-60</i>
	Reasons for changes: <i>To remove the possibility that non-emission uses of natural gas would attract a carbon price.</i>	
	Where a supplier is required to accept an OTN quotation, the OTN holder must notify the supplier in writing of their intention to quote their OTN. The notification period is 28 days, or a shorter period if agreed between the supplier and the OTN holder.	<i>Clean Energy Bill, clause 55B, 57 and 58</i>
	Reasons for changes: <i>To give natural gas suppliers time to make the necessary administrative adjustments to their supply arrangements.</i>	
	There will be no 'application to own use' provision concerning withdrawal of natural gas.	
	Reasons for change: <i>To simplify compliance for natural gas users.</i>	
	The Regulator will publish a list of OTNs that have been cancelled or surrendered on its website, including the time when the cancellation or surrender takes effect.	<i>Clean Energy Bill, clause 43A</i>
	Reasons for changes: <i>To allow natural gas suppliers to more easily determine when an OTN has been cancelled, providing warning that liability will revert back to the supplier within 28 days.</i>	

Issue	Description of changes to legislation	Reference
	<p>The Regulator may amend an entry on the OTN Register for a natural gas supplier if the supplier changes its name or address.</p> <p>A person or a natural gas supplier listed on the OTN Register must notify the Regulator of a change in its name or address within 28 days after the change.</p>	<p><i>Clean Energy Bill, clause 46</i></p> <p><i>Clean Energy Bill, clause 47</i></p>
	<p>Reasons for changes: <i>To provide explicit powers for the Regulator to record changes in the details of natural gas suppliers.</i></p>	
	<p>Following the surrender or cancellation of an OTN, the grace period (28 days) after which liability for natural gas reverts to the natural gas supplier, can be shortened only by agreement between the supplier and former OTN holder, not unilaterally by the OTN holder as proposed in the exposure draft legislation.</p>	<p><i>Clean Energy Bill, clauses 54 and 55</i></p>
	<p>Reasons for change: <i>To better reflect the commercial arrangements between natural gas suppliers and users.</i></p>	
<p>Evidence of the Regulator's decisions and the Registry – use in evidence</p>	<p>Provisions concerning the use of certified copies or extracts from the OTN Register as evidence in court proceedings have been replaced with a note referencing relevant provisions of the <i>Evidence Act 1995</i>.</p>	<p><i>Clean Energy Bill, clauses 46</i></p>
	<p>Reasons for change: <i>To ensure consistency with the Evidence Act 1995.</i></p>	
<p>Fuel opt-in scheme</p>	<p>Under the exposure draft, the mechanism included only covered natural gas and other fuels were covered by the equivalent carbon price under the fuel tax system. An Opt-in Scheme will allow certain entities otherwise liable under the fuel tax system to opt into the mechanism, and their liability will be based on potential greenhouse gas emissions.</p> <p>Under the Opt-in Scheme the opt-in entity will not necessarily be the one eligible for fuel tax credits. Eligibility will be confined to: the entity entitled to fuel tax credits, a member of the GST group under the <i>Fuel Tax Act 2006</i>, or a member of a GST joint venture under that Act. A person must apply to be declared an opt-in entity by the Regulator.</p> <p>The Minister must take all reasonable steps to ensure that regulations to put in place the Opt-in Scheme are made before 15 December 2012. Reporting and record-keeping requirements will be modelled on other Clean Energy Bill provisions.</p>	<p><i>Clean Energy Bill, Part 3, Division 7</i></p>
	<p>Reasons for changes: <i>The Opt-in Scheme responds directly to concerns expressed by stakeholders about the best way in which they could manage their emissions reduction liabilities. The changes in the bill provide a greater level of certainty about the potential contents and timing of regulations for businesses wanting to opt into the carbon pricing mechanism.</i></p>	

Issue	Description of changes to legislation	Reference
Extending buy-back and fixed price unit purchase deadlines	An extension of surrender deadlines may occur if two or more people are unable to surrender eligible emissions units during the whole or part of the last surrender day (15 June or 1 February for fixed price years; and 1 February for flexible price years) because of computer, telecommunications or internet system failures. The same extension provisions will apply to purchase of fixed price (including price cap) units and the buy-back facility.	<i>Clean Energy Bill, clauses 100A and 116A</i>
Reasons for changes: <i>Liabile entities may be disadvantaged if they are unable to acquire fixed price units or use the buy-back facility because of system failures that were out of their control.</i>		
Carbon units - Indefeasibility of title	<p>The bill as introduced makes it clear that:</p> <ul style="list-style-type: none"> ▪ the registered holder of units is the legal owner; ▪ the transfer of a carbon unit has no effect until it is registered; and ▪ bona fide purchasers are protected if they have acquired units without notice of any defect in the title of the seller (e.g. where the units have been stolen). <p>Regulations may make provision for or with respect to the registration of any equitable interest in a carbon unit, but not an equitable interest to which the <i>Personal Property Securities Act 2009</i> applies. The power in section 22 of the <i>Australian National Registry of Emissions Units Act 2011</i> to rectify the Register is subject to the vesting of the legal interest in the unit</p>	<p><i>Clean Energy Bill, clauses 103A, 106 and 109A of the main bill;</i></p> <p><i>Consequential Amendments bill, Schedule 4, items 17A, 21A, 21B, 23A, and 36A</i></p> <p><i>Consequential Amendments bill, Schedule 5 item 25D</i></p>
Reasons for changes: <i>The changes ensure that there is limited scope for dispute on issues relating to the ownership of units on the Registry and the way in which they may be transferred. This provides those using the Registry with greater confidence and certainty that their bona fide transactions will be honoured.</i>		
Auctions	The bill makes it clear that amount to be paid for units is the amount equal to the amount the person indicated or declared, in the course of the auction, that the person would be willing to pay by way of charge for the issue of the unit, and that the auctioneer accepted as the charge for the unit.	<i>Clean Energy Bill, clause 111</i>
Reasons for change: <i>This change removes a potential barrier to using, for example, an ascending clock auction, which involves bidders making an offer which is not accepted because demand has outstripped supply and returning to a previous offer as the price of the unit. This means that the last amount that the person indicated they would be willing to pay for the unit is not the price of the unit.</i>		
The Regulator may auction carbon units even if there is no determination in force.		<i>Clean Energy Bill, clause 113</i>

Issue	Description of changes to legislation	Reference
	Reasons for change: <i>This change means that there is no doubt about the Regulator's capacity to conduct auctions in the event that a determination is disallowed by either House of Parliament. Without auctions, the emissions trading scheme could not function.</i>	
Payment and surrender	If an eligible Australian carbon credit unit is surrendered, the Regulator must cancel the unit and remove the entry for the unit from the Registry account.	<i>Clean Energy Bill, clause 122</i>
	The bill clarifies the methodology for calculating interim emissions numbers in the first year of the mechanism (2012-13), which allows for the use of data relating to the previous year for a facility.	<i>Clean Energy Bill, clause 126</i>
	Reasons for changes: <i>These changes improve the practical application of the payment and surrender process.</i>	
Voluntary changes to emissions numbers	The Regulator may remit unit shortfall charges <u>in part</u> where a liable entity voluntarily discloses that an earlier emissions number was underreported. The remission is limited to the extent of the underreporting.	<i>Clean Energy Bill, clause 134A</i>
	Reasons for change: <i>The change will remove disincentives for liable entities to report errors in reported emissions numbers.</i>	
Jobs and Competitiveness Program	The need for ongoing assistance to emissions-intensive trade-exposed industries is to be considered having regard to whether the impact of measures taken by competing countries and major emitting countries to reduce emissions is comparable to the impact of Australian measures (including but not restricted to the carbon pricing mechanism).	<i>Clean Energy Bill, clause 143</i>
	Reasons for change: <i>To clarify that the full range of emissions reduction measures internationally is to be considered in reviews of the Jobs and Competitiveness Program.</i>	
	Any changes to regulations that have a negative effect on recipients of assistance under the Program should not take effect before the later of 1 July 2017 or the end of the 3-year period that begins when the reduction is announced.	<i>Clean Energy Bill, clause 145</i>
	Reasons for change: <i>This change reflects the Clean Energy Future Plan and ensures that the Government, when considering changes to assistance, has regard to the agreed principle that industry needs a notice period before adverse changes to assistance take effect.</i>	
	In conducting an inquiry on the Program, the Productivity Commission must have regard to, among other things, the impact of the carbon pricing mechanism on emissions-intensive trade-exposed industries (rather than just the impact of the Jobs and Competitiveness Program); and whether the Program is supporting Australia's medium and long-term emissions reduction objectives.	<i>Clean Energy Bill, clause 156(2)</i>

Issue	Description of changes to legislation	Reference
	Reasons for change: <i>This change clarifies the broader scope of matters to be considered.</i>	
	The Productivity Commission must publish a report as soon as practicable after its being tabled in a House of the Parliament.	<i>Clean Energy Bill, clause 158</i>
	Reasons for changes: <i>Clarifies relationship between tabling and publication.</i>	
Energy Security – Generator assistance	To apply for assistance, the applicant must apply within 30 days after the commencement of Part 8. This would have the effect of changing the extended time limit to 60 days and changing the timing for the regulator to make a decision to 150 days. Application forms may be approved by the Minister as a combined form (including application for payments from the Energy Security Fund). A special appropriation is made for the funding provided from the Energy Security Fund.	<i>Clean Energy Bill, clause 163</i> <i>Clean Energy Bill, clauses 303A and 303B</i>
	Reasons for changes: <i>The changes provide a faster application and assessment period in response to feedback from industry. The combined form (covering cash payments in 2011-12 as well as free carbon units under the legislation) simplifies the application process and minimises the need to provide duplicate information.</i> <i>The special appropriation ensures that measures from the Energy Security Fund can be funded and implemented quickly should this be required to achieve energy security outcomes.</i>	
Energy Security – Clean Energy Plans	The required contents of a Clean Energy Investment Plan are detailed in the legislation rather than being specified in a legislative instrument by the Resources and Energy Minister. The legislation provides greater clarity that the power system reliability test and the requirement for a Clean Energy Investment Plan <i>do not apply</i> to generation complexes which are subject to closure contracts.	<i>Clean Energy Bill, clauses 177, 178 and 181A</i>
	Reasons for changes: <i>Placing the requirements for Clean Energy Investment Plans in legislation provide additional industry certainty as how it might comply with the requirement to lodge a Plan.</i> <i>Generators which close will not be required to submit Clean Energy Investment Plans. Power system reliability issues will be covered by closure contract provisions.</i>	

Issue	Description of changes to legislation	Reference
Significant holdings	<p>The bill as introduced:</p> <p>increases the threshold for when someone has a significant holding from 5 per cent to 10 per cent;</p> <p>simplifies the information that needs to be provided to the Regulator in such a notification, to remove the requirement to provide the total number of carbon units, or the total number of carbon units expressed as a percentage of the carbon pollution cap;</p> <p>reduces the amount of information that needs to be published by the Regulator. The Regulator will now only need to publish the name and address of the controlling corporation or non-group entity; and the significant holding percentage; and</p> <p>requires a notification to the Regulator if there is a change in the significant holding percentage.</p>	<i>Clean Energy Bill, clauses 218 and 219</i>
<p>Reasons for changes: <i>The changes respond to stakeholder concerns about the practicability of the significant holdings obligations while still ensuring the disclosure of useful information to the market.</i></p>		
Land Sector Carbon and Biodiversity Board	<p>Board size increased to 5 members (including the Chair); and additional areas of expertise added (including indigenous land management).</p> <p>Greater clarity of the Board's functions has been provided, including specific references to the Board's role in relation to the Government's Biodiversity Fund.</p> <p>The Board's annual reporting requirements have been broadened to require an outline of progress against performance indicators and implementation of activities related to its functions and the role of these activities in advancing Australia's biodiversity or mitigation measures.</p>	<i>Climate Change Authority bill, clauses 62, 64, 65 and 81</i>
<p>Reasons for changes: <i>The changes respond to stakeholder concerns about Board membership and that its role in relation to the Biodiversity Fund needs to be specifically articulated. They provide greater clarity on the Board's functions and reporting obligations.</i></p>		
Anti-avoidance	<p>Matters to be considered in deciding whether there is an anti-avoidance scheme have been added, including the manner in which the scheme was entered into or carried out, the form, substance and timings of the scheme, the result which would otherwise have been achieved, and whether the scheme involves artificial splitting of facilities to avoid the emissions threshold.</p>	<i>Clean Energy Bill, clause 29</i>
<p>Reasons for changes: <i>Greater clarity on factors to be considered by the Regulator in deciding whether avoidance activity is being carried out.</i></p>		

Issue	Description of changes to legislation	Reference
Regulator's powers and obligations	The Regulator must give written notice of decisions under the bill to the person or persons affected by the decision.	<i>Clean Energy Bill, various clauses</i>
	Reasons for changes: <i>These changes make it clear that the Regulator must give clear advice to affected persons about its decisions.</i>	
	Additional disclosure powers for the Regulator to other Departments which collect statistics relating to greenhouse gas emissions, energy consumption or energy production, for the purposes of advising the relevant Minister or administering the relevant program. The Regulator may disclose protected information to the CEO of the Australian Customs and Border Protection Service (Customs).	<i>Clean Energy Regulator Bill 2011, clauses 46 and 49</i>
	Reasons for changes: <i>More effective information exchange provisions. Disclosure to Customs added to ensure effective operation of fuel opt-in provisions.</i>	
<i>National Greenhouse and Energy Reporting Act 2007</i>	<p>Removal of previous requirement for permission by the Regulator before republication by States and Territories of greenhouse and energy information relating to facilities located there.</p> <p>Reporting obligations can be transferred within a corporate group to a member who is a holder of a Corporate Group Liability Transfer Certificate in addition to a group member with operational control.</p> <p>Methodology for the publication of energy consumption to be set out in regulations.</p> <p>Other minor technical amendments to reflect other policy changes in the <i>Clean Energy Bill 2011</i> following the exposure draft (e.g. treatment of natural gas).</p>	<p><i>Consequential Amendments bill, Schedule 1, Part 1, Item 153A, item 369</i></p> <p><i>Consequential Amendments bill, Schedule 1, Part 2, Item 371</i></p>
	<p>Reasons for changes: <i>These changes provide more efficient dissemination of information by States/Territories and respond to industry feedback by providing greater consistency of reporting under the NGER Act.</i></p> <p><i>The methodology currently specified in the NGER Act for the publication of data can overstate the level of energy consumption through double counting, leading to inaccuracy and a loss of confidence in the accuracy of the system. This change will allow for the methodology to be spelt out in regulations and changed as needed.</i></p>	
<i>Australian National Registry of Emissions Units Act 2011</i>	Additional requirements in relation to decisions on refusing to give effect to transfer instructions, restricting or limiting the operation of, or suspending, Registry accounts, to require the Regulator to make decisions within 7 days, require the Regulator to notify persons of final decisions, and to provide notice to persons affected by an interim decision about transactions on the Registry.	<i>Consequential Amendments bill, Schedule 4, item 23, new sections 28B, 28C and 28D</i>

Issue	Description of changes to legislation	Reference
	Reasons for changes: Greater clarity on decision-making powers with regard to the suspension of accounts, so as to provide certainty to the market and promote confidence it is secure, and that the rights of affected persons are recognised.	
Carbon Credits (Carbon Farming Initiative) Act 2011	Technical changes to facilitate the transfer of projects from prescribed non-CFI offsets schemes, such as the NSW/ACT Greenhouse Gas Reduction Scheme and the former national Greenhouse Friendly Initiative, to the CFI.	Consequential Amendments bill, Schedule 5, items 5-12, 15-17
	Reasons for changes: These changes provide avenues for persons covered by non-CFI offsets schemes to become part of the CFI.	
	Regulations will specify circumstances in which the regulatory additionality test does not apply.	Consequential Amendments bill, Schedule 5, items 13-14
	Reasons for change: This change prevents unintended exclusion of projects that are undertaken voluntarily, but incorporated into licence or environmental approval conditions.	
	Transitional provisions will ensure that advice and consultation by the interim Domestic Offsets Integrity Committee are carried over into the statutory CFI when it commences.	Consequential Amendments bill, Schedule 5, items 18, 24 and 25
	Two members of the DOIC will be CSIRO officers and the requirement that the majority of members must not be Commonwealth employees is removed.	Consequential Amendments bill, Schedule 5, items 30 and 31
	Reasons for changes: These changes ensure that the work of the interim DOIC can be preserved during the transition to the statutory CFI and that the DOIC has members with appropriate levels of technical expertise.	
	Other technical changes (e.g. disclosure of protected information allowed where it has been lawfully made available to the public, AUSTRAC added as a body to which protected information may be disclosed)	Consequential Amendments bill, Schedule 5
	Reasons for change: Minor changes to make CFI provisions consistent with the carbon pricing mechanism.	

Issue	Description of changes to legislation	Reference
Renewable Energy (Electricity) Act 2000	The Regulator has a discretion to refuse registration under the RET on grounds prescribed by regulations. The regulator will be given additional powers to suspend registration on grounds prescribed by regulations.	<i>Consequential Amendments bill, Schedule 3</i>
	Clarification of the close relationship between the inspection process for small generation units and that for registering certificates, including that fees charged for registration must be reasonably related to the Commonwealth's expenses in carrying out inspections and preparing inspection reports.	<i>Consequential Amendments bill, Schedule 1, Item 451A Section 162</i>
	A recommendation by the Climate Change Authority made as part of a periodic review of the Renewable Energy (Electricity) Act must not be inconsistent with the objects of that Act.	
Reasons for changes: <i>These changes ensure that the RET scheme is properly administered and reviewed.</i>		
<i>The change to the requirements for Climate Change Authority reviews is intended to ensure its recommendations are consistent with the Parliament's intent regarding the renewable energy target.</i>		
Ozone Protection and Synthetic Greenhouse Gas Management Act 1989	The Minister may exempt licensees from the levy when satisfied that the synthetic greenhouse gas (SGG) to be imported or manufactured in the following circumstances:	<i>Levy Amendment Bills, Schedule 1, item 3</i>
	it would be impracticable to impose levy on the import of an SGG that is to be used for a purpose to be prescribed by those regulations;	<i>Consequential Amendments bill, Schedule 1, Part 2, item 425</i>
	SGGs for medical, veterinary, health or safety purposes;	
	SGGs imported solely for the purpose of destruction under prescribed conditions.	<i>Consequential Amendments bill, Schedule 1, Part 2, item 450</i>
	This exemption for private or domestic equipment will only apply where the equipment has also been prescribed by regulation or legislative instrument made by the Minister and any prescribed conditions have also been complied with.	
	Regulations may authorise a licensee to assign their right to receive a remittal or refund of the carbon charge component to a third party.	
Reasons for changes: <i>This change ensures that SGGs when imported or manufactured for specific public benefit purposes, such as medical equipment, may be excluded from the application of the carbon price when appropriate and avoids unintentionally disadvantaging users of products such as inhalers to relieve asthma. It allows possible unintended consequences to be avoided regarding the appropriate refund or remittal of the carbon charge component when licensees have passed it on to a third party.</i>		

