

Introduction

Referral of the Bill

- 1.1 On 24 May 2012 the Selection Committee referred the following bills to the committee for inquiry and report:
- Clean Energy Legislation Amendment Bill 2012;
 - Clean Energy Finance Corporation Bill 2012;
 - Clean Energy (Customs Tariff Amendment) Bill 2012; and
 - Clean Energy (Excise Tariff Legislation Amendment) Bill 2012.

Origins and purpose of the Bills

- 1.2 During 2011 the Australian Parliament passed the Clean Energy Legislative Package and Steel Transformation Plan. The package introduces a mechanism to place a value on greenhouse gas emissions and seeks to achieve lasting reductions over time. The design of the plan has been the subject of considerable public debate, discussion and policy development. The Joint Select Committee on Australia's Clean Energy Future Legislation noted that the 'the science of climate change and climate change mitigation policy have been subject to extensive review and inquiry.'¹ Since 1992 the Commonwealth Parliament has conducted 36 committee inquiries into climate change related issues.

1 Joint Select Committee on Australia's Clean Energy Future Legislation, *Advisory Report on the Clean Energy Bills and the Steel Transformation Bill 2011*, October 2011, p. 6.

- 1.3 The four bills referred to the committee build on the existing legislative framework by establishing the Clean Energy Finance Corporation (CEFC) and making minor and technical amendments designed to improve the operation of the carbon pricing mechanism.

Clean Energy Legislation Amendment Bill 2012

- 1.4 The Clean Energy Legislation Amendment Bill supports the establishment of the Clean Energy Finance Corporation. In addition the Bill addresses commitments made by the government during passage of the original legislation.

- 1.5 The inquiry by the Joint Select Committee on Australia's Clean Energy Future Legislation identified the need for further fine tuning of the treatment of liquid petroleum gas under the mechanism. The Minister for Energy Efficiency and Climate Change, the Hon Greg Combet, MP, stated:

During passage of the Clean Energy Act in 2011 the government, following consultation with industry, committed to consider the coverage of gaseous fuels – which include liquefied petroleum gas, liquefied natural gas and compressed natural gas – in a similar way to how large liquid fuel users may be able to opt into the carbon price mechanism.

This commitment responded to representations by the gaseous fuels sector and to a recommendation made by the Joint Select Committee on Australia's Clean Energy Future Legislation.²

- 1.6 In addition to addressing matters relating to LPG, the Clean Energy Legislation Amendment Bill deals with four additional measures. The Bill amends the *National Greenhouse and Energy Reporting Act 2007* to enhance its operation for reporting entities.
- 1.7 The Bill makes technical amendments to the Carbon Credits (Carbon Farming Initiative) Act 'to ensure the robustness of the processes supporting the Carbon Farming Initiative.'³
- 1.8 The *Australian National Registry of Emissions Units Act 2011* will be amended to enhance the security of the registry.
- 1.9 Finally, the Bill makes amendments relating to the CEFC. The Minister noted that the 'bill amends legislation establishing the Australian Renewable Energy Agency and the Clean Energy Regulator to provide for

2 The Hon Greg Combet, MP, Minister for Energy Efficiency and Climate Change, *House of Representatives Hansard*, 23 May 2012, p. 8.

3 The Hon Greg Combet, MP, Minister for Energy Efficiency and Climate Change, *House of Representatives Hansard*, 23 May 2012, p. 9.

the appropriate sharing of information between those agencies and the Clean Energy Finance Corporation.’⁴

Clean Energy Finance Corporation Bill 2012

1.10 The Clean Energy Finance Corporation Bill gives effect to the Government’s commitment (made as part of its Clean Energy Future Package in July 2011) to establish the CEFC. The Explanatory Memorandum (EM) noted that ‘the Corporation will be a \$10 billion fund dedicated to investing in clean energy.’⁵ The Minister stated:

The Clean Energy Finance Corporation is a key part of the government's plan. It will encourage private investment and help overcome financial barriers to commercialising and deploying cleaner energy technologies.⁶

1.11 The CEFC will receive funding of \$2 billion per year for five years from 2013-14. The EM notes that the CEFC is intended to be self-sustaining once mature.

Clean Energy (Customs Tariff Amendment) Bill 2012 and Clean Energy (Excise Tariff Legislation Amendment) Bill 2012

1.12 These Bills amend the Excise Tariff Act and the Customs Tariff Act. The EM advises that ‘the amendments provide that, from 1 July 2012, compressed natural gas (CNG) used for non-transport purposes will not be subject to the effective carbon price through the fuel tax system so that it may be covered by the carbon pricing mechanism.’⁷

Consultation

1.13 The design of the CEFC was undertaken by an expert review panel chaired by Ms Jillian Broadbent. The review recommended a framework for how the corporation should operate. The Minister stated that government is implementing the recommendations through the Clean Energy Finance Corporation Bill. The CEFC review panel, through its consultation process, received 151 public submissions.

4 The Hon Greg Combet, MP, Minister for Energy Efficiency and Climate Change, *House of Representatives Hansard*, 23 May 2012, p. 9.

5 Explanatory Memorandum, Clean Energy Finance Corporation Bill 2012, p. 7.

6 The Hon Greg Combet, MP, Minister for Energy Efficiency and Climate Change, *House of Representatives Hansard*, 23 May 2012, p. 6.

7 Explanatory Memorandum, Clean Energy Legislation Amendment Bill 2012, p. 6.

1.14 The review panel was appointed in October 2011 and presented its report to government in March this year.

1.15 Ms Broadbent, in her letter transmitting the final report to the government, stated:

Since the establishment of the Expert Review Panel for the Clean Energy Finance Corporation (CEFC) on 12 October 2011, we have consulted broadly and sought submissions across the sector. The Panel appreciated the generosity of time given by individuals in those consultations and the quality and content of the submissions which we received.

Across the Panel and the Secretariat, each submission was given due consideration and the common themes have been captured in this report.

In preparing this report, the Panel, both through our own research and reading submissions, reinforced its view of the positive role the CEFC can play in the Government's vision for a cleaner energy future, tackling climate change, lowering carbon emissions and transforming Australia's energy sector.⁸

1.16 In addition to Ms Broadbent, the expert review panel comprised Mr Ian Moore and Mr David Paradice. Each of the members had significant experience in financial markets. The report noted that 'Ms Broadbent's 30 year banking career has given her experience in all forms of financing across the risk spectrum, from equity through to secured debt and the appropriate pricing differentials involved.'⁹ Mr Moore has 35 years of banking, finance, insurance and actuarial experience. Mr Paradice is the 'founding principal of Paradice Investment Management which has \$6.5 billion under management, with offices in Australia and the United States of America.'¹⁰

1.17 During the hearing, some members asked whether there were any witnesses from the relevant agencies who had experience working in the finance sector, specifically with respect to venture capital, private equity, portfolio investment, debt finance or equity capital markets. This was an important question because it brought attention to and highlighted the purpose of and experience of the Expert Panel comprising Ms Broadbent, Mr Moore and Mr Paradice. The Expert Panel was brought together to

8 CEFC Expert Review Panel, *Clean Energy Finance Corporation Expert Review: Report to Government*, March 2012, Commonwealth of Australia, p. 2.

9 CEFC Expert Review Panel, *Clean Energy Finance Corporation Expert Review: Report to Government*, March 2012, Commonwealth of Australia, p. v.

10 CEFC Expert Review Panel, *Clean Energy Finance Corporation Expert Review: Report to Government*, March 2012, Commonwealth of Australia, p. v.

ensure that the types of experience identified by the committee was available in the development of the CEFC. During the hearing, Treasury confirmed that the Bill 'reflects the findings of the expert review panel into the Clean Energy Finance Corporation.'¹¹

Objective and scope of the inquiry

- 1.18 The objective of the review is to examine the adequacy of the Bills in achieving their policy objectives. In referring the Bills, the Selection Committee stated:

REASONS FOR REFERRAL/PRINCIPAL ISSUES FOR CONSIDERATION: (a) The advantages to the Australian economy from the establishment of the Clean Energy Finance Corporation (CEFC); (b) the need for such a government entity given its stated purpose, and to investigate why market failures have occurred, particularly if such projects are expected to deliver a commercial return; (c) to investigate whether the legislation has adequate provisions when it comes to assessing the commercial feasibility of projects selected by the CEFC, and the suitability of the initiatives the CEFC will be supplementing in terms of the government's clean energy programs; (d) whether adequate safeguards and standards exist in relation to the selection of projects by the CEFC to prevent waste of taxpayer's money; and (e) the suitability of the government's accounting treatment in light of the allocation of appropriations for this government entity.¹²

Structure of the report

- 1.19 Chapter 2 provides a more detailed discussion of the Bills and discusses the key issues raised at the hearing.

11 Mr Mike Waslin, Department of the Treasury, *Committee Hansard*, Canberra, 28 May 2012, p. 3.

12 House Selection Committee, Report 53, 24 May 2012.