

# Chapter 1

## Background to the inquiry

1.1 The Save Our Solar (Solar Rebate Protection) Bill 2008 [No. 2] was introduced into the House of Representatives on 23 June 2008. On 25 June, the Senate referred the provisions of the bill to the Senate Standing Committee on Environment, Communications and the Arts for report by 15 August 2008. It also asked the committee to examine:

- (a) the impact of the means test threshold of \$100,000 on the \$8,000 solar rebate per household on the solar industry;
- (b) the effect on the uptake of solar panels by Australian households, comparing state-by-state results;
- (c) the impact on the number of applications for the \$8,000 since the budget decision to impose the means test;
- (d) the impact on jobs in the solar industry, comparing state-by-state results;
- (e) the impact on emissions reductions as a consequence of this decision, comparing state-by-state results;
- (f) the consultation that occurred within government, including departments and agencies, prior to the decision and the input of each department and agency on the measure;
- (g) the economic and environmental modelling underpinning the decision to impose the means test;
- (h) the extent of the discussion prior to the decision with the solar panel industry on the impact of the decision;
- (i) the future viability of, and effects on, the solar industry as a result of the means test;
- (j) the impact on the Solar Cities programs at various sites around Australia and other related programs; and
- (k) other relevant matters.

1.2 The committee provided an interim report on 15 August 2008, and is now presenting its final report.

1.3 In accordance with usual practice, the committee advertised the inquiry in *The Australian*, calling for submissions by 21 July 2008. A number of organisations and individuals were contacted directly and invited to make submissions. The committee received submissions from 157 individuals and organisations, which are listed in Appendix 1.

1.4 The Senate's resolution stated that 'as a minimum, the committee hold hearings in all Australian capital cities'. Having regard to the number and relevance of the submissions received and the availability of witnesses, the committee took evidence from witnesses in every state and territory, doing so through hearings that included teleconferences (see Appendix 2). The committee thanks the many people who expressed an interest in this inquiry and who made themselves available to give evidence at hearings around the country.

### **Background to the bill**

1.5 The Australian government has an extensive range of policies designed to address climate change and support the development of renewable energy industries and generating capacity in Australia. These policies include the Mandatory Renewable Energy Target, the Solar Homes and Communities Plan, the National Solar Schools Program, the Renewable Remote Power Generation Program, a Green Loans scheme and the development of a Carbon Pollution Reduction Scheme.

1.6 One of the key renewable energy technologies being supported through these policies and programs is photovoltaic electricity generation, using what are commonly referred to as solar panels or solar cells. Using this technology, sunlight is converted directly into DC (direct current) electricity using panels of photovoltaic cells. The key chemical constituent of the cells is silicon. An inverter device is required to convert the DC into AC (alternating current), the mains voltage power that is used in the home, schools and businesses. A photovoltaic system may also be connected to the electricity grid and feed power into it, and this is referred to as a grid-connected system. The rate of energy production of these systems is measured in watts. A typical photovoltaic system installed on the roof of a home would have energy production in the range from one up to three or four kilowatts.

1.7 Within the Commonwealth's array of policies, one mechanism by which solar photovoltaic energy is being encouraged is through the Solar Homes and Communities Plan (SHCP). The aims of the SHCP are to encourage the use of solar photovoltaic technology, thereby reducing greenhouse gas emissions, assisting in the development of the Australian photovoltaic industry, and increasing awareness of renewable energy resources.<sup>1</sup> The SHCP (previously the Photovoltaic Rebate Program (PRP)) 'provides cash rebates for the installation of grid-connected solar photovoltaic systems [solar panels] on homes and community use buildings'.<sup>2</sup> A rebate of \$8 per watt (up to a maximum of \$8000) is available for electricity grid-connected households participating in the Plan.

1.8 In addition, some states and territories are in the process of implementing a feed-in tariff for renewable energy. Feed-in tariffs are the subject of another bill

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1 Department of the Environment, Water, Heritage and the Arts, *Submission 147*, p. 1.

2 Department of the Environment, Water, Heritage and the Arts, <http://www.environment.gov.au/settlements/renewable/pv/index.html> (accessed 30 June 2008)

before the Senate<sup>3</sup> that is also being examined by this committee. A report on that bill is to be presented to the Senate by 14 October 2008. However there was extensive discussion of feed in tariffs in evidence to the current inquiry, and they will be mentioned briefly in this report.

1.9 A feed-in-tariff offers a long term financial return by paying the home owner a premium price for the power generated by their grid-connected generating unit. Feed-in tariffs and rebates are complementary policies having the same objective: encouraging the installation of renewable energy electricity generation systems by providing a financial incentive to the purchaser.

1.10 The Commonwealth's Minister for Environment Heritage and the Arts, the Hon. Peter Garrett AM has indicated that at 'the next COAG meeting in October the Government plans to work towards a harmonised approach to renewable energy feed-in tariffs'.<sup>4</sup>

### *The history of the Solar Homes and Communities Plan rebate*

1.11 The structure of the Solar Homes and Communities Plan rebate has change several times since the program was first introduced in the 1999-2000 budget. These can be summarised as follows:

Year	Rebate, \$ per watt	Eligible wattage	Maximum rebate	Other conditions
1999-2000	\$ 5.50	1.5 kW	\$ 8 250	
1 Oct 2000	\$ 5.00	1.5 kW	\$ 7 500	
2003-04	\$ 4.00	1.0 kW	\$ 4 000	
2007-08	\$ 8.00	1.0 kW	\$ 8 000	
2008-09	\$ 8.00	1.0 kW	\$ 8 000	Means test

1.12 On 13 May 2008, the Government introduced a means test for the solar rebate in order to make the Plan more equitable and 'to ensure that the rebates of up to \$8,000 get to households that need them most to pay for installing solar power systems'.<sup>5</sup> Households with an annual taxable income of under \$100 000 are eligible for the rebates. Only owner/occupiers are eligible for the rebate, and the house must

3 Renewable Energy (Electricity) Amendment (Feed-in-Tariff) Bill 2008.

4 The Hon. Peter Garrett AM, speech to the Appropriate Technology Retailers Association of Australia conference, 2 August 2008.

5 The Hon Peter Garrett MP, Minister for the Environment, Heritage and the Arts, Media Release 13 May 2008, <http://www.environment.gov.au/minister/garrett/2008/pubs/budmr20080513f.pdf> (accessed 30 June 2008)

be the primary residence. Households are only eligible if it is the first solar rebate application, and the system must be installed by an accredited installer.<sup>6</sup>

### **The Terms of the Bill**

1.13 In introducing the Save Our Solar (Solar Rebate Protection) Bill 2008, Senator Johnston stated that the bill is 'designed to remove the means test on solar panels by making the Government's Administrative Order a disallowable instrument',<sup>7</sup> however the committee notes that the bill itself makes no reference to the rebate at all, including the means test, and that passage of the bill itself would not affect the scheme.

1.14 This bill recognises that, as is the case with many government programs, there is no legislative basis for the guidelines currently applying to the rebate program under the SHCP. The current guidelines are administrative in nature. The bill's main objective is to require that guidelines on the operation of the Solar Homes and Communities Plan are tabled in Parliament and subject to disallowance, in accordance with the *Legislative Instruments Act 2003*.<sup>8</sup>

1.15 Clause 3 sets out the object of the bill which are:

- to make the guidelines under which the Solar Homes and Communities Plan operates, legislative instruments disallowable by either house of Parliament ;
- to establish the general responsibility of the Secretary of the Department of the environment, Heritage and the Arts for the administration of the plan; and
- to establish the principles of administration for the plan.

1.16 The substance of the bill is contained in clauses 5 and 6 which require the responsible Minister to issue new guidelines for the plan which must specify the eligibility criteria 'to be satisfied by a person or an organisation in order to receive a payment under the plan' and the types of solar systems for which a rebate will be payable.

1.17 The new guidelines for the SHCP would be a legislative instrument under the *Legislative Instruments Act 2003*. Guidelines would, as a result, be subject to scrutiny and potential disallowance by either House of Parliament. In practical terms this would mean that the details of the operation of the Solar Homes and Communities Plan, including any means test or income threshold and other aspects of the

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6 Department of the Environment, Water, Heritage and the Arts, *Solar Homes and Communities Plan, Guidelines for Residential Applicants*, May 2008, <http://www.environment.gov.au/settlements/renewable/pv/pubs/shcp-residential-guidelines-21may2008.pdf> (accessed 12 August 2008)

7 Senator David Johnston, second reading speech, *Senate Debates*, 24 June 2008, p. 3186.

8 See Section 42 of the Act.

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administration such as how and when payments should be made, would be subject to scrutiny by and a decision of the Senate.

1.18 Clause 6 states that the Minister's responsibilities include:

(b) in the event of disallowance of guidelines, determining replacement guidelines so as to ensure that there is no time when the plan is not in operation.

This has the effect of requiring the Minister to issue guidelines acceptable to the Senate because, in the event of disallowance, the Plan would cease to operate unless replacement guidelines acceptable to the Senate were put in place.

1.19 It would not be possible for a Minister to 'spin out' the process by introducing new guidelines that were similar to those that had been disallowed. Section 48(1) of the *Legislative Instruments Act 2003* states that, where a legislative instrument has been disallowed:

... a legislative instrument, or a provision of a legislative instrument, that is the same in substance as the first-mentioned instrument or provision, must not be made within 6 months after the day on which the first-mentioned instrument or provision was disallowed.

1.20 The term 'same in substance' has tended to be interpreted broadly, thus any replacement guidelines issued after disallowance would have to be distinctly different from the disallowed guidelines.

1.21 The effect of this section is to change the intent of disallowance from a power of veto by either house to a constructive power vested in either house (but in practice the Senate) to dictate the guidelines for a government program. Since the Plan must continue in operation the executive must produce guidelines that are acceptable to the Senate.

