Chapter 5

Criticism (and counter criticism) of the bill

5.1 This chapter presents the three main criticisms of the bill presented in evidence to the committee:

- the greater importance of the government's Carbon Pollution Reduction Scheme (CPRS) and other complementary measures;
- the high cost of administering and complying with the scheme; and
- that the proposed scheme does not adequately target incentives.

The importance of the CPRS and other complementary measures

5.2 The first and main criticism of the scheme proposed in the bill is that other abatement measures should take precedence. The Property Council of Australia (PCA), for example, argued in its submission that the CPRS should provide the main price signal for modifying building energy use. It claimed that efforts to combine an economy-wide cap and trade with a sector-specific baseline and credit scheme 'will create confusion'.[1] Mr Peter Verwer, Chief Executive of the PCA, told the committee that:

> …the CPRS is important. If we are going to proceed with the CPRS, which I understand is the policy of the Labor government, then that would be an argument to see how the CPRS goes or at least for it to be fully designed before we start implementing a complementary measure such as the one that is proposed in the bill.[2]

5.3 The PCA emphasised that existing and proposed programs designed to improve the energy efficiency of buildings should be tested before additional programmes are added.[3] Mr Verwer explained that:

> …a large number of energy efficiency programs that relate to the built environment have been launched in the past year. The National Strategy on Energy Efficiency and the climate change action programs which were launched mid last year contain a large number of specific programs that either address or touch upon improvements in energy and carbon performance—the greenhouse gas emissions from the built environment. Indeed, at our last count, adding them all up, there are about 54…[T]here is a lot going on in this area which is yet to be tested and which we believe will result in a substantial improvement in the energy efficiency of non-residential buildings. So to add a further program at this time before the

1 Property Council of Australia, *Submission* 5, p. 2.

2 Mr Peter Verwer, *Proof Committee Hansard*, 25 February 2010, p. 3.

3 Property Council of Australia, *Submission* 5, pp. 1–2.

> other programs have been properly tested does not optimise the public policy approach to improving energy efficiency in buildings.[4]

5.4 In similar vein, the Energy Efficiency Council urged the 'rapid introduction of a strong and effective Carbon Pollution Reduction Scheme' (CPRS) in addition to a range of complementary policies to address market distortions that impede energy efficiency.[5] Specifically, the Council recommended the following policies to drive retrofitting of existing commercial buildings:

- a National Energy Efficiency Scheme that covers commercial buildings and replaces the energy efficiency schemes introduced in New South Wales, Victoria and South Australia;
- design options include a white certificate scheme and expanded Green Building Programs;
- a National Demand-Management Scheme to address the existing distortions in the National Electricity Market (NEM) that favour supply-side over demand-side solutions;
- capacity building in the finance, property and energy efficiency sectors;
- mandatory disclosure of commercial building performance; and
- improvements in the energy efficiency of government operations.[6]

5.5 Mr Rob Murray-Leach, Chief Executive Officer of the Energy Efficiency Council, argued that these policies offered a more direct and targeted approach than the bill's scheme. He told the committee that:

> We do not want to give people money every year because 10 years ago they upgraded their building and it is really efficient or tax people who have a building that is pretty old and it is very hard to get above a certain performance level. We think a better way of doing that is to provide targeted incentives that really help building owners sit up and pay attention. One of the reasons it has not worked before is that the schemes have generally been fairly badly designed.[7]

5.6 The Green Building Council of Australia also argued that other building efficiency measures, complementary to the introduction of the CPRS, should be prioritised over the bill's scheme. The Council cited the following priorities:

- reforming the Building Code;
- promoting accelerated depreciation and public funding for retrofitting; and

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4 Mr Peter Verwer, *Proof Committee Hansard*, 25 February 2010, p. 2.

5 Energy Efficiency Council, *Submission* 3, p. 3.

6 Energy Efficiency Council, *Submission* 3, p. 3.

7 Mr Rob Murray-Leach, *Proof Committee Hansard*, 12 February 2010, pp. 15–16.

- government leadership in its own buildings and tenancies.[8]

5.7 In its submission, the Australian Institute of Architects cited a range of complementary measures identified in the 2008 report released by the Australian Sustainable Built Environment Council. These include:

- a national white certificate scheme, which minimises differences in existing state white certificate schemes;
- green depreciation, which involves the provision of accelerated depreciation allowances for building investments that involve specific energy efficient fittings, fixtures or fabric to raise the overall energy performance of a building to a specific standard;
- public funding for energy efficient retrofits, where the government provides grants, subsidies and rebates for improvements undertaken in the commercial sector; and
- enhancement of Minimum Energy Performance Standards, including enhancing the Mandatory Efficiency Performance Standards; and modernising the Building Code with higher standards.[9]

The cost of administering, and complying with, the scheme

5.8 A second criticism of the scheme is that it will be expensive to administer and will impose significant compliance burdens on the industry. The Energy Efficiency Council, for example, argued that the scheme is 'administratively cumbersome' with the administrator annually expected to collect data, set the baselines and levy penalties.[10] It argued instead that a scheme to improve the energy efficiency of buildings should focus on 'the point at which buildings' efficiency is improved'.[11]

5.9 Mr Murray-Leach of the Energy Efficiency Council described the administrative impost of the scheme in the following terms:

> What you would need to do if it eventually got up and running is gather data from all these companies on every buildings every year, work out its appropriate rating and the average benchmarking for different climatic zones for that building and then tax them or give them a reward depending

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8 Green Building Council of Australia, *Submission* 7, p. 1. See also Mr Dave Peebles, *Proof Committee Hansard*, 12 February 2010, p. 17.

9 Australian Institute of Architects, *Submission 4*, p. 2; Australian Sustainable Built Environment Council, The Second Plank-Building a low carbon economy with energy efficient buildings', September 2008, pp. viii-ix. http://www.asbec.asn.auifiles/ASBEC%20CCTG%20Second%20Plank%20Report%202.0O.pdf

10 Energy Efficiency Council, *Submission* 3, p. 6.

11 In other words, a scheme that provides direct monetary incentives to invest in a particular green building technology.

> on where they are at. So you actually have to have additional interactions with these building owners every single year. That is a relatively expensive way of doing it.[12]

5.10 The PCA has also argued that the scheme will burden non-residential building owners with an excessive compliance burden. It notes that the number of liable entities in the scheme would be far greater than those covered by the CPRS, and thus 'the compliance burden arising from the legislation would be significantly greater than even the CPRS'. The PCA argued that the legislation should not proceed until a comprehensive regulation impact assessment is undertaken.[13]

5.11 Mr Chè Wall, Managing Director of WSP Lincolne Scott, was asked for his response to this criticism that the scheme would cost too much to administer. He told the committee that:

> The cost of compliance is really very low given the fact that all we are doing is collecting fuel bills on an annual basis on a building-by-building basis—which is a process every business does anyway because they have to pay for them—and then getting them settled. We see two points of interaction. For a small business where cost of compliance has to be kept incredibly low, there would be a market established for independent brokers, like an H&R Block tax adviser who simply receives the data, puts it in the right boxes, lodges that and does a transaction—it is almost a cash based transaction. Sophisticated investors—and Lend Lease corporation is a large building owner—or large property portfolios could interact directly with the carbon register and get all the fiscal benefits of being able to bank permits and do all the market smarts we know are beneficial from an emissions trading point of view. I believe that is truly based on misunderstanding of the scheme.[14]

Targeting incentives

5.12 A third criticism of the scheme proposed in the bill is that it does not adequately target incentives. This argument is a corollary of the broad preference for complementary measures to improve energy efficiency in the non-residential building sector.

5.13 Mr Murray-Leach of the Energy Efficiency Council told the committee that the key to complementary measures is to provide the incentive at the point at which the investment decision is made. He told the committee that the bill's scheme:

> …duplicates the problem with the CPRS, which is that if you are a building owner under a CPRS or under alternative forms of carbon pricing like a carbon tax—and we think it is an important component and it does need to

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12 Mr Rob Murray-Leach, *Proof Committee Hansard*, 12 February 2010, p. 15.

13 Property Council of Australia, *Submission* 5, p. 3.

14 Mr Che Wall, *Proof Committee Hansard*, 12 February 2010, p. 5.

be there because it sets the right level of energy efficiency for people investing—you will not notice and will not invest in the right level of energy efficiency because of background signal. It will just be something you pay every year.

…

We are suggesting that you have an incentive that really drives the retrofits and that it is at that point. Then it creates a point where people can see that upfront incentive and it really helps to change their business decisions. It needs to be linked back to the core business decisions in the way that these companies work. If they are already ignoring an energy bill that is three per cent of their expenses, unless you have an extremely high price in this scheme they probably will not notice that either. What you need is something that is at point of sale or at point of action and actually provides an incentive to invest in energy efficiency.[15]

15 Mr Rob Murray-Leach, *Proof Committee Hansard*, 12 February 2010, p. 16.