



Australian Government

Australian Government response to the
Senate Select Committee on Scrutiny of New Taxes Inquiry
into Carbon Tax Pricing Mechanisms interim and final
reports:

“The Carbon Tax – Economic pain for no environmental
gain” interim report published 7 October 2011.

“The Carbon Tax – Secrecy and spin cannot hide carbon tax
flaws” final report published 1 November 2011.

November 2012

Government response to the Senate Select Committee on Scrutiny of New Taxes Inquiry into Carbon Tax Pricing Mechanisms

Interim Report – The Carbon Tax: Economic pain for no environmental gain

Recommendation 1

It is the Committee's view that the carbon tax should be opposed and the legislation defeated in the Parliament as:

- **there is no electoral mandate for the carbon tax;**
- **the modelling that supports it is based on a number of highly contestable assumptions;**
- **it is likely to undermine Australian businesses' ability to compete in the global economy;**
- **it will have significant adverse effects on particular sectors and regions, with a particularly disproportionate impact on regional Australia;**
- **the effect of the policy on the cost of living, and on jobs is likely to be higher than the government's current estimates indicate;**
- **there is considerable evidence that the carbon tax will not result in any real environmental gain, despite imposing a significant cost on the economy over the next thirty years.**

The Committee recommends that the carbon tax be opposed by the Parliament.

Response: Not agreed.

The Clean Energy Bill 2011 and 17 related bills were passed by the House of Representatives on 12 October 2011 and by the Senate on 8 November 2011.

The Steel Transformation Plan Bill 2011 was passed by the House of Representatives on 12 October 2011 and by the Senate on 9 November 2011.

The *Clean Energy Act 2011*, the *Clean Energy (Consequential Amendments) Act 2011* and the *Steel Transformation Plan Act 2011* received the Royal Assent on 18 November 2011.

The *Climate Change Authority Act 2011* and the *Clean Energy (Household Assistance Amendments) Act 2011* received the Royal Assent on 29 November 2011.

The remaining Clean Energy Acts received the Royal Assent on 4 December 2011.

Recommendation 2

The Committee recommends that if the Parliament believes that it should proceed with the carbon tax, any provisions in the legislation designed to bind future governments seeking to prevent them from amending or rescinding the scheme be removed.

Response: Not agreed.

There are no provisions in the Clean Energy Legislative Package specifically designed to prevent a future Parliament amending the legislation or repealing it.

Recommendation 3

The Committee recommends that if the Parliament believes that it should proceed with the carbon tax, that it does so once current global economic circumstances have improved and there is a legally binding global agreement on tackling climate change.

Response: Not agreed.

The carbon pricing mechanism commenced on 1 July 2012.

The mechanism, along with related initiatives, will allow Australia to meet its unconditional international commitment to reduce greenhouse gas pollution by 5 per cent by 2020 on 2000 levels, for which there is bipartisan agreement.

Ninety countries, accounting for over 80 per cent of global emissions and over 90 per cent of the global economy, have pledged to reduce or limit their carbon pollution by 2020.

Decisions by the United Nations Framework Convention on Climate Change (UNFCCC) Conference of the Parties in Durban in December 2011 build on this existing practical action by launching negotiations for a new agreement under the UNFCCC that will apply to all countries.

Recommendation 4

The Committee recommends that, should the government remain committed to proceeding with its carbon tax, before any vote the Senate should demand that:

- **the government release all of its modelling, including the actual models, datasets and specifications used by the Treasury, to allow third party review;**
- **the government establish an Independent Expert Panel to review its modelling approach and framework;**
- **the Productivity Commission be asked to undertake a cost-benefit analysis of the proposed carbon tax;**
- **the legislation should be amended to ensure that any increase in the tax or lowering of the emissions cap be made a disallowable instrument and to ensure that carbon permits are not private property.**

Response: Not agreed.

The Senate voted to pass the relevant legislation in the form in which it was introduced on 8 November 2011.

Final Report - The Carbon Tax: Secrecy and spin cannot hide carbon tax flaws

Recommendation 1

The committee recommends that the carbon tax be opposed by the Parliament.

Response: Not agreed.

The Clean Energy Bill 2011 and 17 related bills were passed by the House of Representatives on 12 October 2011 and by the Senate on 8 November 2011.

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Recommendation 2

The committee recommends that, should the government remain committed to proceeding with the carbon tax, before any vote the Senate should demand that:

- **the government release all of its modelling, including the actual models, datasets and specification used by the Treasury, to allow third party review; and**
- **the government establish an Independent Expert Panel to review its modelling approach and framework.**

Response: Not agreed.

The Senate voted to pass the relevant legislation in the form in which it was introduced on 8 November 2011.

Recommendation 3

The committee recommends that if the government proceeds with its carbon tax, that the relevant regulator be sufficiently resourced to minimise the risk of fraud or other undesirable activities that might undermine the integrity of the Australian carbon permits.

Response: Agreed.

The *Clean Energy Act 2011* and the *Australian National Registry of Emissions Units Act 2011* include provisions which robustly address the risks of fraud and criminal behaviour involving the carbon pricing mechanism. The Government is confident that the legislation provides a comprehensive framework to address those risks.

In particular, the carbon pricing mechanism will ensure security and combat fraud and other related crime, including through:

- the provisions of robust investigation powers to the Clean Energy Regulator, consistent with those of other economic regulators like ASIC and the ACCC;
- tough criminal penalties for fraudulent or dishonest conduct, consistent with those that apply in laws on financial services, financial markets, competition and consumer protection;
- anti-money laundering provisions;
- identity checks and fit and proper persons checks for persons wishing to open a Registry account to hold permits;
- powers to prevent suspicious or fraudulent transfers of emissions units held in the Registry and to restrict or suspend the operations of Registry accounts; and
- regulation of financial services involving carbon units consistent with the regime for shares and other financial products.

Additionally, the Department of Climate Change and Energy Efficiency is working closely with relevant Commonwealth regulatory bodies through a working group under the Heads of Commonwealth Operational Law Enforcement Agencies, to identify risks and appropriate mitigation treatments.

In relation to the resourcing of the Clean Energy Regulator, 350 staff members (including board members) are expected to be employed when the Regulator becomes fully operational.

Recommendation 4

The committee recommends that the government carefully consider the risks and benefits from linking to foreign carbon markets and that comprehensive safeguards be put in place to minimise the risk to Australian purchasers of foreign carbon abatement units.

Response: Agreed.

Access to verified international emissions reductions means Australia can meet its mitigation commitments at least cost whilst maintaining environmental integrity.

Use of credible international permits from 1 July 2015 will significantly reduce the cost of meeting Australia's emissions reduction commitments.

The carbon pricing mechanism includes adequate restrictions to ensure only quality international units can be used for compliance from the start of the flexible price period.

Regulations will be made to ensure that Australia will not accept Kyoto units from nuclear energy projects, certain industrial gas destruction projects and large scale hydro-electric projects that do not conform to criteria adopted by the EU.

The Climate Change Authority will assess the integrity of international units in its regular reviews of the carbon pricing mechanism and recommend to the Government which units should be permitted and which should be prohibited under the carbon pricing mechanism.

Recommendation 5

In the event that the government proceeds with the carbon tax, the committee recommends that clause 103 of the Clean Energy Bill 2011 be amended to ensure that a property right does not attach to permits and to make it clear that permits can be altered, repealed or revoked at any time without that amounting to an acquisition of property.

Response: Not agreed.

Recommendation 5 misunderstands the purpose of section 103 of the Clean Energy Act 2011. Section 103 is not intended to prevent future Parliaments from repealing the legislation.

Section 103 is intended to allow persons to deal with carbon units in the same way as they deal with other forms of personal property. Carbon units could, for instance, be traded, offered as security, treated as trust property, the subject of family law proceedings or vested in a trustee in bankruptcy. Creating carbon units as personal property will reduce uncertainty about their status under other laws, and promote confidence in the market for units.

Whether or not carbon units are property for the purposes of s 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 this is not explicitly stated in the legislation.

Recommendation 6

If the Clean Energy Future legislative package is passed by the Parliament, the committee recommends that the Senate review the conduct of relevant regulators.

Response: Noted.

The Clean Energy Regulator, the Climate Change Authority, and the Australian Renewable Energy Agency, as government bodies, are accountable to the Parliament. The agencies must:

- comply with their accountability and operational obligations under relevant Commonwealth laws, including their respective constituting Acts, and, as appropriate, the *Financial Management and Accountability Act 1997* or the *Commonwealth Authorities and Companies Act 1997*;
- provide annual reports to the relevant Minister, which must be tabled in both Houses of the Parliament; and
- if required, attend and answer questions posed by Parliamentary committees, including as part of the regular Senate Estimates hearings process.

The Energy Security Council (ESC) will comply with any accountability and operational obligations which apply under relevant Commonwealth laws, comply with the ESC charter, Key Principles and Program Administrative Guidelines (once settled). The Treasury will attend and answer questions posed by Parliamentary committees, including as part of the regular Senate Estimates hearings process, in relation to the ESC.

The Clean Energy Finance Corporation will be established by legislation in the first half of 2012. The CEFC will be required to comply with its enabling legislation and relevant Commonwealth laws.

Recommendation 7

If the Clean Energy Future legislative package is passed by the Parliament, the committee recommends that the Senate review the cost to the Budget of the Clean Energy Finance Corporation and the Australian Renewable Energy Agency given that between them they will be responsible for \$13 billion of expenditure.

Response: Noted.

Establishment of the Australian Renewable Energy Agency will not increase Budget costs. Australian Renewable Energy Agency funding is to be sourced from existing initiatives currently administered by the Department of Resources, Energy and Tourism, the Australian Solar Institute and the Australian Centre for Renewable Energy.

The Clean Energy Finance Corporation's impact on the Budget is outlined in the 2011-12 Mid-Year Economic and Fiscal Outlook and the Clean Energy Future Plan document.

Recommendation 8

The committee calls upon the government to carefully consider further expenditure on its so-called community education for the carbon tax and suspend further unnecessary advertising if the government's legislation passes the Parliament.

Response: Noted.

Governments have a responsibility to inform citizens of their responsibilities and entitlements. The *Guidelines on Information and Advertising Campaigns by Australian Government Departments and Agencies* are in place to ensure that advertising activity undertaken by Government is carefully considered.

Dissenting Report Recommendation

That the Senate pass the government's Clean Energy Future bills so that action is taken from next year to reduce greenhouse gas emissions and meet Australia's emissions reduction targets.

Response: Agreed.

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