

## Introduction

- 1.1 On 24 March 2011, the Selection Committee referred three bills to the House Standing Committee on Climate Change, Environment and the Arts for inquiry and advisory report:
- Carbon Credits (Carbon Farming Initiative) Bill 2011
  - Carbon Credits (Consequential Amendments) Bill 2011
  - Australian National Registry of Emissions Units Bill 2011.<sup>1</sup>
- 1.2 The bills had been introduced into the House of Representatives earlier that day. As a package, they establish a Carbon Farming Initiative, a voluntary scheme that will enable the crediting of land sector greenhouse gas abatement achieved through offset projects. Its purpose is to give farmers, forest growers and landholders access to domestic voluntary and international carbon markets.<sup>2</sup>
- 1.3 This chapter will provide background information on the inquiry and its conduct, before considering the bills in general terms. Later chapters will examine specific issues within the bills and arising from the operation of the scheme, based on evidence received through submissions and public hearings. Three appendices contain lists of submissions and exhibits, and a list of witnesses who appeared at a public hearing on 3 May 2011.

## Background to the inquiry

- 1.4 As part of their development, exposure drafts of the bills were released by the Department of Climate Change and Energy Efficiency in late 2010. As

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1 House of Representatives, *Votes and Proceedings*, No. 34—24 March 2011, p. P454.

2 Carbon Credits (Carbon Farming Initiative) Bill 2011, Explanatory Memorandum, p. 3.

part of that process, the department prepared a consultation paper, received 276 submissions, and conducted workshops around Australia.<sup>3</sup>

- 1.5 Following introduction in the House, the bills were introduced in the Senate on 25 March 2011, and were referred to the Senate Environment and Communications Committee for inquiry and report by 20 May 2011.
- 1.6 The Committee notes that the referral of identical bills to committees of both Houses for concurrent inquiry and report occurs infrequently. While the standing orders of both Houses provide for some formal cooperation between Committees, the timing of the respective sittings of the Chambers did not allow practical consideration of such options.
- 1.7 The Committee notes therefore that throughout its inquiry, there has been some informal contact with Senate colleagues, and that it is expected that submissions authorised for publication by one Committee will have been considered by the other. A similar approach has extended to the conduct of public hearings; it is expected that each Committee, to assist its deliberations, may have utilised the publically available evidence of the other.

## Conduct of the inquiry

- 1.8 Individuals and organisations were invited to prepare submissions, and on the Committee's behalf, the Department of Climate Change and Energy Efficiency advised its stakeholders of the inquiry. A media release was issued on 1 April 2011, and the inquiry was included in the fortnightly House of Representatives advertisement in *The Australian* on 6 April 2011. Details of the inquiry were made available on the Committee's website.
- 1.9 The Committee received 70 submissions to the inquiry. These are listed at Appendix A.
- 1.10 The Committee noted that while a reporting date had not been set by the Selection Committee, the Senate Committee was ordered to report by 20 May 2011. The Committee considered the relatively short timeframe for the inquiry, and the possibility that the bills could be debated in the House before the end of the 2011 winter sittings.

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3 Further information on Departmental activities is available at:  
<http://www.climatechange.gov.au/en/government/submissions/carbon-farming-initiative.aspx>, viewed on 6 May 2011.

- 1.11 Noting the proposed conduct of a public hearing by the Senate Committee on 20 April 2011, a public hearing was scheduled for 3 May 2011. The Committee anticipated that evidence received by the Senate Committee could be examined, before further witnesses were invited by the House Committee. In this way, the Committee sought to avoid duplication of the Senate witnesses, and to extend the range of evidence which could be used by both Committees in their deliberations. The list of witnesses who appeared at the House Committee hearing on 3 May 2011 is listed at Appendix C.

### Impact of Selection Committee on operation of House Committees

- 1.12 As noted above, these bills were referred to the Committee by the Selection Committee, and the concurrent referral of identical bills to the corresponding Committee in the Senate is a rare occurrence. The Committee makes some observations in this regard:
- The new parliamentary arrangements from the commencement of the 43<sup>rd</sup> Parliament resulted in changes to standing orders of the House, including a significantly expanded role for the Selection Committee.
  - While these changes may result in an increasing number of bills being referred to House Committees for examination, an unintended consequence may be the examination of identical bills by *both* Houses.
  - The Committee welcomes the opportunity to consider legislation, especially where a review is relevant and may assist in the timely development of improved legislation. The Committee considers however that for such reviews to be fully effective, they should avoid any perception of duplication, which may result in confusion among inquiry participants and other stakeholders.
- 1.13 The Committee will therefore take an active and ongoing interest in the referral of legislation under standing orders 143(b) and 222(a)(iii) governing the operation of the Selection Committee.

## Overview of the Carbon Farming Initiative

1.14 As noted in paragraph 1.2, the bills, as a package, establish a Carbon Farming Initiative, a voluntary scheme that will enable the crediting of land sector greenhouse gas abatement achieved through offset projects. The stated purpose of the scheme is to give farmers, forest growers and landholders access to domestic voluntary and international carbon markets.

### Carbon Credits (Carbon Farming Initiative) Bill 2011

- 1.15 The Carbon Credits (Carbon Farming Initiative) Bill 2011, which is the main bill in the package of three, outlines three objectives for the scheme:
- help Australia meet its international obligations under the United Nations Convention on Climate Change and the Kyoto Protocol to reduce emissions of greenhouse gases;
  - create incentives for people to undertake land sector abatement projects; and
  - achieve carbon abatement in a manner that is consistent with protection of Australia's natural environment and improves resilience to the impacts of climate change.<sup>4</sup>
- 1.16 The main elements of the two accompanying bills are outlined below, before the operation of the proposed scheme is discussed in general terms.

### Australian National Registry of Emissions Units Bill 2011

- 1.17 An Australian National Registry of Emissions Units already exists as an 'electronic system which is used to ensure accurate accounting of the issuance, holding, transfer, acquisition, cancellation, retirement and carryover of emissions units under the Kyoto Protocol'<sup>5</sup>.
- 1.18 The bill will provide a legislative basis to the existing registry, which will now combine the registry functions of the Carbon Farming Initiative and the Kyoto Protocol.

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4 Carbon Credits (Carbon Farming Initiative) Bill 2011, Explanatory Memorandum, p. 3.

5 Australian National Registry of Emissions Units Bill 2011, Explanatory Memorandum, p. 3.

- 1.19 The Explanatory Memorandum (EM) for the Australian National Registry of Emissions Units Bill notes that since the registry was opened in September 2009, 'organisations and individuals have been able to apply to open accounts and participate in the domestic and international trade of Kyoto units.'<sup>6</sup> The EM states:

The Government intends to modify the Registry so that it can be used to track the location and ownership of units issued under the Carbon Farming Initiative (CFI), as well as meet ongoing obligations under the Kyoto Protocol. The Registry would be maintained by the Administrator of the CFI.

The main advantages of combining Kyoto Protocol and CFI functions in one registry are that it will avoid duplication in account opening and operating procedures, and keep implementation and transaction costs down. For example, CFI project proponents will be able to receive Australian carbon credit units, apply to have those exchanged for Kyoto units (if they are eligible), and transfer the Kyoto units to an offshore purchaser – through a single registry account, dealing with a single administrator.<sup>7</sup>

## The Carbon Credits (Consequential Amendments) Bill 2011

- 1.20 The Explanatory Memorandum for the Carbon Credits (Consequential Amendments) Bill notes that it contains amendments which are consequential on the passage of the other two bills. It also notes that the bill contains transitional provisions and makes various amendments, the purpose of which are to implement safeguards to protect purchasers of Australian carbon credits and international units, and provide deterrence against criminal activities involving the Carbon Farming Initiative.
- 1.21 The bill seeks to amend the following legislation so that it applies to units held in the Australian National Registry of Emissions Units:
- *National Greenhouse and Energy Reporting Act 2007*
  - *Corporations Act 2001*
  - *Australian Securities and Investments Commission Act 2001*
  - *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*

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6 Australian National Registry of Emissions Units Bill 2011, Explanatory Memorandum, p. 3

7 Australian National Registry of Emissions Units Bill 2011, Explanatory Memorandum, p. 3.

- *Competition and Consumer Act 2010*

1.22 The consequential amendments bill also includes amendments to the *National Greenhouse and Energy Reporting Act 2007*, including extending reporting transfer certificate arrangements.<sup>8</sup>

## **Proposed operation of the scheme**

1.23 As outlined above, the three bills together provide for a regime to allow for carbon farming projects to be created, and for carbon sequestered in these projects to be exchanged for Australian Carbon Credit Units (ACCUs).

1.24 Holders of ACCUs are then able to retain their units, to use them to offset their own emissions, to sell the units to organisations seeking to offset their carbon emissions, or retire the units to reduce the supply available to the market to increase the price of carbon.

1.25 As stated in the EM to the main bill, the CFI scheme will enable crediting of land sector greenhouse gas abatement, 'whether or not it is recognised towards Australia's Kyoto Protocol target'. The EM notes that abatement may be achieved by undertaking offsets projects which:

- Reduce or avoid emissions, for example, through capture and destruction of methane emissions from landfill or livestock manure; or
- Remove carbon from the atmosphere and store it in soil or trees, for example, by growing a forest, or farming in a way that increases soil carbon.<sup>9</sup>

1.26 Carbon credits represent abatement of greenhouse gases achieved as a result of such offsets projects. They are usually:

... purchased or 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.<sup>10</sup>

1.27 The EM notes that carbon credits can be used to offset emissions voluntarily or to meet regulatory requirements.<sup>11</sup>

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8 Carbon Credits (Consequential Amendments) Bill 2011, Explanatory Memorandum, p. 4.

9 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, p. 5.

10 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, p. 5.

11 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, p. 5.

1.28 In simple terms, the scheme operates as follows:

- A project proponent appoints a project manager or registers themselves as a project manager for a recognised offsets entity.<sup>12</sup>
- The project manager uses an approved methodology for carbon abatement for the project. A number of integrity standards must apply to projects concerning: additionality, measurement and verification, leakage, international consistency, support from peer reviewed science, and accounting for cyclical variability.<sup>13</sup>
- The project must be undertaken in accordance with that methodology and also comply with other scheme eligibility requirements.<sup>14</sup>
- The project proponent reports on the project and the Administrator issues ACCUs into the project proponent's Australian National Registry of Emissions Unit account when abatement has been verified.
- The entitlement of ACCUs is the amount of abatement measured according to the methodology for the reporting period minus a risk of reversal buffer of 5 per cent of the ACCUs issued.<sup>15</sup> The buffer is designed to insure the scheme against temporary losses of carbon and losses that cannot be remedied.<sup>16</sup>
- The account holder is free to use their ACCUs as they wish. Credits can be sold to companies or individuals, in Australia or overseas.<sup>17</sup>

## Projects

1.29 Examples of sequestration projects are: reforestation, revegetation, native forest protection, avoided de-vegetation, improved management of forests, reduced forest degradation, forest restoration, rangeland restoration, improved vegetation management, enhanced or managed regrowth, and enhanced soil carbon.<sup>18</sup>

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12 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, Chapter 2.

13 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, pp. 53-56.

14 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, p. 26.

15 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, pp. 67, 86.

16 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, p. 68.

17 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, p. 83.

18 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, p. 12.

- 1.30 Examples of emissions avoidance are: reductions in emissions from savanna burning, agricultural production, feral animal management and legacy waste.<sup>19</sup>
- 1.31 Not all sequestration and emissions reductions projects are internationally recognised and the bill distinguishes between Kyoto offsets projects and non-Kyoto offsets projects.<sup>20</sup> Part 3, Division 12, clause 55 outlines those projects that will be considered a Kyoto offsets project.
- 1.32 Offsets projects must comply with all state, Commonwealth and local government water, planning and environmental requirements and proponents must take account of regional natural resource management plans.<sup>21</sup>
- 1.33 Sequestration projects are subject to permanence provisions and a risk of reversal buffer. Permanence is considered to be 100 years. The project proponent must hold the carbon sequestration right for all of the project area.<sup>22</sup>
- 1.34 A crediting period of either 7 years for projects other than native forest protection projects and 20 years for native forest protection projects will apply. During this period the methodology determination and risk of reversal buffer cannot be changed without the project proponent's consent and the number of credits issued will not be affected by changes to regulations.<sup>23</sup>
- 1.35 Projects can be transferred or terminated. ACCUs must be handed back if the project is terminated or carbon stores are deliberately destroyed. In the event of drought, bushfire or other factors outside a landholder's control, the landholder will be required to re-establish carbon stores and will not receive further ACCUs until this occurs.<sup>24</sup>
- 1.36 A carbon maintenance obligation 'runs with the land', however credits can be surrendered if a property is sold.<sup>25</sup> A co-benefits index will be established that includes environmental and community benefits to enable proponents to obtain a premium for ACCUs.<sup>26</sup>
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19 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, p. 13.

20 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, pp. 15-17.

21 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, p. 7.

22 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, pp. 28-29.

23 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, p. 88.

24 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, pp. 66-67.

25 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, p. 64.

26 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, p. 7.

## Methodologies

- 1.37 Methodologies are one of the key elements of the scheme, and the bill allows for methodologies to be generated by operators, rather than being imposed by government. An independent expert committee, the Domestic Offsets Integrity Committee (DOIC), has been established to assess proposed methodologies and make recommendations to the Minister regarding their approval, based on the capacity of the methodology to deliver real and verifiable abatement. Once a new methodology has been approved, it may be applied by the operator.
- 1.38 While there are methodologies that have already been developed, operators are able to develop their own methodologies for submission to the DOIC.<sup>27</sup> Methodologies are discussed in more detail in chapter two.

## General views about the scheme

- 1.39 Based on the above general principles about the proposed operation of the scheme, the Committee has been careful to review aspects which were of ongoing concern to those who prepared submissions and appeared at public hearings. While these aspects are explored in further detail in the next two chapters, the Committee sought some ‘in principle’ views on the Carbon Farming Initiative. The Committee found most participants to be partially or wholly supportive of the scheme for a range of reasons.

## Benefits of the scheme

- 1.40 There was general agreement expressed in submissions and by witnesses at the public hearing that the CFI was a positive development in terms of providing recognition for work being undertaken in various sectors, including to benefit from the abatement opportunities in the land sector. There was some recognition that crediting of land sector greenhouse gas abatement was overdue, and that the CFI would provide a good framework for improved practices. Professor Snow Barlow stated that:

We think that it [the CFI] has the potential to engage the primary industries of Australia in basically greenhouse mitigation activities but, because of its broad coverage across both sequestration and carbon offsets in terms of methane, nitrous oxide and other losses from waste products, we feel that this has the capacity to engage

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27 Carbon Credits (Carbon Farming Initiative) Bill 2010, Explanatory Memorandum, Chapter 5.

the farming communities in activities that will help improve the competitiveness of Australian agriculture and also improve the carbon intensity of the way we farm – by ‘improve’ – I mean decrease the carbon intensity by the way we farm. I think it presents great opportunities.<sup>28</sup>

1.41 The Committee was advised by all witnesses at its 3 May 2011 public hearing that the CFI was a positive development. Mr Mark Wootton, Chairperson of The Climate Institute, and farm manager, noted that it was a ‘particularly good idea’ and ‘a great opportunity’.<sup>29</sup>

1.42 While noting that the scheme, ‘still had a long way to go’, Professor Grace informed the Committee that it would harness best management practices:

This is not just about carbon farming; it is about productivity, and that is where engagement is critical. ... When I talk to a grower, I do not talk about greenhouse gas emissions; they are indicators of inefficiency. I talk to them about productivity and being efficient farmers. That is where the engagement is and that is where the carbon farming initiative has got those hallmarks embedded in it.<sup>30</sup>

1.43 The Committee acknowledges the view of inquiry participants that the scheme represents a good start in the management of land sector abatement, and who were generally in agreement with the objectives of the scheme.<sup>31</sup> The Committee notes that a range of perspectives were canvassed during the public hearing, and that while several constructive criticisms were made for improvement of aspects of the scheme, the overall reaction was positive. The Committee particularly noted the view expressed by Mr Corey Watts of the Climate Institute that the bill ‘strikes a balance between its twin principles of broad landholder participation on the one hand and environmental integrity on the other.’<sup>32</sup>

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28 Professor Snow Barlow, Proof Transcript of Evidence, 3 May 2011, p. 1.

29 Mr Mark Wootton, Proof Transcript of Evidence, 3 May 2011, p. 7.

30 Professor Peter Grace, Proof Transcript of Evidence, 3 May 2011, p. 2.

31 Mr Mark Wootton, Proof Transcript of Evidence, 3 May 2011, p. 7; Mr Corey Watts, Proof Transcript of Evidence, 3 May 2011, p. 9; Dr Sarah Ryan, Proof Transcript of Evidence, 3 May 2011, pp. 13, 14; Mr Michael Power, Proof Transcript of Evidence, 3 May 2011, p. 17; Mr Peter Balsarini, Proof Transcript of Evidence, 3 May 2011, p. 30; Mr David Putland, Proof Transcript of Evidence, 3 May 2011, pp. 34, 35; Mr Peter Cosier, Proof Transcript of Evidence, 3 May 2011, p. 40; Mr Andrew Macintosh, Proof Transcript of Evidence, 3 May 2011, p. 43.

32 Mr Corey Watts, Proof Transcript of Evidence, 3 May 2011, p. 8.

## Consultation processes

1.44 In general, the Committee accepts the views of inquiry participants that the Department of Climate Change and Energy Efficiency had adequately consulted with stakeholders. As noted earlier in this report, the Department conducted a process where comment was invited on an exposure draft of the legislation, and 276 submissions were received from individuals and organisations. The Committee also acknowledges the Department's claim that several improvements were made to the legislation following that 'widespread' consultation.<sup>33</sup> The Committee accepts that many concerns expressed in earlier submissions to the Department may have since been addressed, as described by Mrs Thompson, from the Department:

The National Farmers Federation also welcomed the introduction of the legislation to parliament, noting that many of its initial concerns about the scheme's design had been addressed through the consultation process.<sup>34</sup>

1.45 Mr Corey Watts of The Climate Institute praised the consultative process, noting that it had occurred in a short space of time, and stating that the Department had 'listened well'.<sup>35</sup>

1.46 The Committee accepts that the consultation processes undertaken to date with regard to the draft legislation have been effective and wide-ranging. The Committee is of the view that these processes must continue as the regulations which will accompany the bill are designed and implemented. The Committee is particularly aware of the concerns raised by industry groups that the impact of the regulations is yet to be determined.

1.47 Dr Lisa Strelein, of the Australian Institute of Aboriginal and Torres Strait Islander Studies explained that with regard to consultation with Indigenous communities, there is more work to be done, and that:

Often the mistake that is made in consultations is going out there and selling something that is already done rather than, as I said, learning from people that have got experience in these areas about how to make the fit work.<sup>36</sup>

1.48 The Committee considers that the approach described by Dr Strelein in terms of the participation of Indigenous communities is relevant to

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33 Mrs Shayleen Thompson, Proof Transcript of Evidence, 3 May 2011, p. 47.

34 Mrs Shayleen Thompson, Proof Transcript of Evidence, 3 May 2011, p. 47.

35 Mr Corey Watts, Proof Transcript of Evidence, 3 May 2011, p. 8.

36 Dr Lisa Strelein, Proof Transcript of Evidence, 3 May 2011, p. 27.

general consultation on aspects of the CFI. The Committee is aware of the extent of knowledge and expertise among inquiry participants, and anticipates that this experience will be of ongoing benefit in consultative processes in future stages of the scheme's development.