

Portfolio Committee No. 7 inquiry into the Climate Change (Net Zero Future) Bill 2023

EPA response to question on notice

Question 1:

The CHAIR: Just on that, Mr Chappel, I don't think anybody is disputing that. I think we think so, but the concern is if we don't legislate a regretful target, or not the best target. More to the point, the target that apparently we have got now and that we are working towards—is there something inconsistent with that?

The Hon. MARK BUTTIGIEG: Can I just on that follow up, Chair, because there seems to be a bit of creational ambiguity here, if I could put it that way. The current regulatory target which is in place is not going to be overwritten by this legislation, is it? The two are not mutually inconsistent? You have got the commission then potentially recommending better targets on a quicker trajectory. That's the whole point, isn't it? That's my understanding of the bill.

TONY CHAPPEL: That's certainly my understanding and that then I think the Government would return to Parliament with any further targets, and those would be matters for Parliament.

The Hon. PETER PRIMROSE: But how does that work? The first thing is to confirm—it's been raised many times—the existing regulation is not going to be wiped out if this bill passed. That could be a decision by the government at some point to seek to wipe it out, but it is not automatically wiped out if this becomes an Act. That is correct?

TONY CHAPPEL: I think we'd probably need to take it on notice.

The CHAIR: I think the issue is—and we will investigate this perhaps with some legal advice. But the argument put to us is that even though the regulation would continue—the Energy and Utilities Administration Regulation would continue—the effect of that 2035 target would mean nothing, because the board that ensures that target is reported and it is only through the board that will no longer exist. I think that's the—

Answer 1:

The Office of Energy and Climate Change, NSW Treasury has advised:

The Bill does not repeal the 2035 emissions reduction target prescribed in section 8(2)(a)(ii), or any other part, of the Energy and Utilities Administration Regulation 2021 (EUA Regulation). The Bill only confers on the Minister the power to abolish the Net Zero Board: Schedule 2, Part 2, section 2(1). This means that the 2035 target remains in the statute book unless and until it is otherwise repealed. This may occur either by direct repeal or by automatic repeal under Part 3 of the Subordinate Legislation Act 1989. Section 20 of the Interpretation Act 1987 confirms that “regulation means a regulation made under the Act in which that word occurs”. This means that the words “the regulations” in clause 9(3) of the Bill are a reference to the regulations made under the Bill, not other regulations.

Question 2:

The Hon. JACQUI MUNRO: Just on that, is there an understanding about the process by way of a time line—when this commission would be set up, when it would be required to report for the first time?

DANIJELA KARAC: I think our colleagues indicated that we weren't involved in the drafting of the bill, so we're not—

The Hon. JACQUI MUNRO: There's no understanding of that?

DANIJELA KARAC: No understanding of the time line.

TONY CHAPPEL: I'm sure we can take that one on notice.

Answer 2:

The Office of Energy and Climate Change, NSW Treasury has advised:

The Office of Energy and Climate Change (OECC) is working to establish the Commission as soon as possible after assent of the Bill. Assuming an assent date of late 2023, OECC is working towards establishment of the Commission in early 2024.

The Commission would then deliver its inaugural annual report, as stipulated in the Bill, in November 2024.