

**2016**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**RENEWABLE ENERGY LEGISLATION  
AMENDMENT BILL 2016**

**REVISED EXPLANATORY STATEMENT**

**Presented by  
Mr Simon Corbell  
Minister for the Environment and Climate Change**

## EXPLANATORY STATEMENT

This explanatory statement relates to the Renewable Energy Legislation Amendment Bill 2016 (the bill) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the bill and to help inform debate on it. It does not form part of the bill and has not been endorsed by the Legislative Assembly.

The statement must be read in conjunction with the bill. It is not, and is not meant to be, a comprehensive description of the bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

### **Background**

The bill amends the *Climate Change and Greenhouse Gas Reduction Act 2010* (Climate Change Act) and the *Electricity Feed-in (Large-scale Renewable Energy Generation) Act 2011* (FiT Act) to give effect to Government policies regarding greenhouse gas emission reduction and renewable energy targets.

The aim of the Climate Change Act is to promote the development of policies and practices to address climate change and set targets to reduce greenhouse gas emissions in the Territory.

Section 6 of the Climate Change Act established the Territory's principal greenhouse gas emissions target of zero net emissions by 30 June 2060.

Section 7 establishes two interim emissions targets of:

- 40% less than 1990 levels by 30 June 2020
- 80% less than 1990 levels by 30 June 2050.

Section 9 requires the Minister to determine targets for the use or generation of renewable energy in the ACT. In 2013 the Minister determined, by disallowable instrument (DI2013-271), a new 90%-by-2020 Renewable Energy Target (RET). This replaced the earlier disallowable instrument that determined a 25%-by-2020 RET in 2011 (DI2011-81). The Minister, by disallowable instrument, determined a new RET of 100% by 2020 (DI2016-38).

The purpose of the FiT Act is to establish a scheme to support the development of large-scale renewable energy generation capacity for the ACT. Currently, the total capacity of the generating systems of large renewable energy generators in relation to which Feed-in Tariff (FiT) entitlements may be held under this Act is 550MW.

### ***Amendment to the Climate Change Act***

In December 2015 the United Nations Framework Convention on Climate Change (UNFCCC) held its twenty-first Conference of the Parties (COP21) in Paris. At the end of this conference 195 Parties to the UNFCCC had formed an agreement, the Paris Agreement, to enhance action on climate change, including a statement to achieve a balance between emissions by sources and removals by sinks (zero net emissions) in the second half of the century.

This Agreement presents the Territory with an opportunity to enhance its current greenhouse gas emission reduction targets with a view to achieving zero net emissions by mid-century. In doing so, the Territory will be consistent with the intention of the Agreement to hold the increase in the global average temperature to well below 2°C above pre-industrial levels, with a view to limit the temperature increase to 1.5°C above pre-industrial levels.

This bill facilitates this by bringing forward the target date for zero net emissions from 30 June 2060 to 30 June 2050. In doing so, this amendment bill also removes the second interim target of 80% less than 1990 levels by 30 June 2050.

### ***Amendment to the FiT Act***

The primary mechanism currently adopted by the government in pursuit of the first interim greenhouse gas emission target is through the uptake of large-scale renewable energy through the FiT Act.

The ACT Government has declared a more ambitious RET for the use of renewable energy (electricity) in the ACT from 90% by 2020 to 100% by 2020. A determination to give effect to this was made under section 9 of the Climate Change Act (DI2016-38).

To meet the more ambitious RET, amendments to the FiT Act are required to increase the total FiT capacity and to grant FiT entitlements to large renewable energy generators (under s11 of the FiT Act) immediately after the total FiT capacity is increased.

This bill increases the total capacity of the generating systems of large renewable energy generators in relation to which FiT entitlements may be held under the FiT Act from 550MW to 650MW. This is to facilitate the additional capacity required to ensure that the 100%-by-2020 RET is achieved.

This bill includes a schedule which deems the FiT capacity release disallowable instrument to be made under section 10 of the FiT Act, is taken to have been notified on the Legislation Register, to have commenced on the commencement of the amendment bill and is not required to be presented to the Legislative Assembly under the *Legislation Act 2001*, section 64(1). This will permit the Territory to enter into negotiations and grant FiT entitlements before the six sitting day disallowance period passes. This will permit the Territory to achieve the 100% RET by 2020.

### **Costs and benefits**

Moving to a 100% RET by 2020 places the Territory at the forefront of the renewable energy target rankings and demonstrates to industry, business and the community its commitment to sustainability in the ACT.

Achieving the 100% RET by 2020, by granting deeds of entitlement for up to 91MW of large-scale renewable energy generation, will have an estimated pass through cost of \$5.50 per week per household in 2020, which is within the \$5.18-\$5.87 cost originally modelled for achieving 90% RET in 2020.

## **Human Rights**

This bill does not engage any human rights.

### **Outline of provisions**

#### **Part 1 - Preliminary**

##### **Clause 1 - Name of Act**

This clause names the amendment Act.

##### **Clause 2 – Commencement**

This clause provides for the commencement of the Act.

##### **Clause 3 – Legislation amended**

This clause states the Acts that are amended by the amendment bill.

#### **Part 2 – Climate Change and Greenhouse Gas Reduction Act 2010**

##### **Clause 4 – ACT greenhouse gas emissions target – Section 6(1)**

This clause omits 30 June 2060 and substitutes 30 June 2050. This brings forward, by a decade, the date to achieve the target of zero net emissions in the ACT.

##### **Clause 5 – Interim greenhouse gas emissions targets – Section 7(1)**

This clause amends the current interim targets as a consequence of amending section 6 of the Act (clause 4 above). As the date to achieve the target of zero net emission in the ACT is brought forward to 30 June 2050, the interim target of 80 per cent less than 1990 emissions by 30 June 2050 is obsolete. The Minister may still determine additional interim targets between 2020 and 2050 under section 7(2).

#### **Part 3 – Electricity Feed-in (Large-scale Renewable Energy Generation) Act 2011**

##### **Clause 6 – FiT capacity – Section 9**

This clause increases the statutorily-limited total FiT capacity of the generating systems of large renewable energy generators in relation to which FiT entitlement may be held under the FiT Act. To achieve the more ambitious RET of 100% by 2020 and the greenhouse gas emissions target by 30 June 2050 additional capacity for large-scale renewable energy generation is required.

The clause increases the amount of capacity available for release under the FiT Act from 550MW to 650MW.

## **Clause 7 – New section 26**

This clause inserts a transitional provision into the FiT Act – new section 26. New subsection 26(1) deems the disallowable instrument scheduled to the bill, *Electricity Feed-in (Large-scale Renewable Energy Generation) FiT Capacity Release Determination 2016 (No 2)*, to be made under section 10.

New subsection 26(2) provides that the disallowable instrument may be amended or repealed as if it had been made by the Minister under section 10.

New subsection 26(3) provides that the disallowable instrument is taken to have been notified on the Legislation Register on the day the amendment Act is notified, to have commenced on the commencement day of the amendment Act, and not to be required to be presented to the Legislative Assembly under the Legislation Act, section 64(1).

New subsection 64(4) provides that subsections 10(4) and 11(3) of the FiT Act do not apply to the disallowable instrument.

New subsections 26(5) and (6) detail the effect of the transitional provision.

This new section is required to release under section 10 the additional FiT capacity provided under s9 (clause 6 above) immediately so the additional 91MW FiT capacity may be allocated through the current Next Generation Renewables Auction, or by direct grant. This will allow negotiation of deeds of entitlement and grants of FiT entitlements to be made in time for projects to be completed by 2020 to meet the 100% RET.

Disallowable instruments are usually subject to Legislative Assembly disallowance procedures. Further, s11(3) of the FiT Act prohibits the Minister from granting a FiT entitlement under the FiT capacity release until after the disallowance period has passed – six sitting days. This clause removes the prohibition on the Minister granting deeds of entitlement until after the six sitting day disallowance period has passed. However, the Assembly still has scrutiny of this disallowable instrument through the debate on the amendment bill.

## **Clause 8 New schedule 1**

This clause inserts a new schedule to the FiT Act which is the disallowable instrument *Electricity Feed-in (Large-scale Renewable Energy Generation) FiT Capacity Release Determination 2016 (No 2)* (see new section 26, clause 7 above).

The content of the disallowable instrument complies with section 10 of the FiT Act.