



# australian network of environmental defender's offices

Submission on *Enhancing the Renewable Energy Target  
Discussion Paper*

14 April 2010

The Australian Network of Environmental Defender's Offices (ANEDO) consists of nine independently constituted and managed community environmental law centres located in each State and Territory of Australia.

Each EDO is dedicated to protecting the environment in the public interest. EDOs provide legal representation and advice, take an active role in environmental law reform and policy formulation, and offer a significant education program designed to facilitate public participation in environmental decision making.

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## Introduction

The Australian Network of Environmental Defender's Offices Inc (ANEDO) is a network of 9 community legal centres in each state and territory, specialising in public interest environmental law and policy. ANEDO welcomes the opportunity to comment on the *Enhancing the Renewable Energy Target Discussion Paper* (Discussion Paper).

ANEDO has commented extensively on Commonwealth renewable energy policy proposals including responding to previous discussion papers proposing amendments to the Renewable Energy Target (RET) scheme<sup>1</sup>, on the Exposure Draft legislation<sup>2</sup>, to the Senate inquiry into a national feed-in tariff<sup>3</sup> and to the COAG Working Group on Climate Change and Water.<sup>4</sup>

This submission will focus on the policy positions set out in the Discussion Paper, from a public interest environmental law and policy perspective. Where appropriate, ANEDO also provides comment on specific matters relating to implementation of the Government's proposed changes to the RET scheme.

## General Comments

ANEDO generally supports the proposal to split the RET scheme into two parts, namely the Small-scale Renewable Energy Scheme (SRES) and the Large-scale Renewable Energy Target (LRET). The Government's proposal addresses ANEDO previously-expressed concerns that the Solar Credits scheme could lead to the creation of 'phantom credits' because the 'multiplier' mechanism originally proposed for small scale renewable energy generation created extra credits for energy that was not, in fact, generated. As ANEDO noted, operation of the proposed mechanism would result in lower annual renewable energy levels than the 20% level targeted for 2020. The split RET scheme now proposed by the Government is to be commended given that it will ensure that the incentive for industry to invest in large scale renewable energy is not affected or diluted by excess renewable energy credits (RECs) created from small-scale renewable generation and by the problem of 'phantom credits'.

Notwithstanding the improvement represented by the proposed split RET scheme, several general concerns with the scheme that ANEDO raised in prior submissions remain. To address those concerns, ANEDO reiterates that the proposed RET scheme should be amended as follows:

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<sup>1</sup> ANEDO Submission on Discussion Paper 4 – Treatment of new waste coal mine gas power generation in the RET and Discussion Paper 5 – the treatment of "Solar Credits" Renewable Energy Certificates under the RET, 28 January 2010. Available at:

[http://www.edo.org.au/policy/100128ret\\_discussion\\_papers4&5.pdf](http://www.edo.org.au/policy/100128ret_discussion_papers4&5.pdf)

<sup>2</sup> ANEDO Submission on the Renewable Energy Target scheme – Exposure Draft legislation- 13 February 2009. Available at: <http://www.edo.org.au/policy/090219ret.pdf>

<sup>3</sup> ANEDO Submission to the Inquiry into the Renewable Energy (Electricity) Amendment (Feed in Tariff) Bill 2008- 13 August 2008. Available at:

[http://www.edo.org.au/policy/080801senate\\_inq\\_renew\\_energy\\_amndts.pdf](http://www.edo.org.au/policy/080801senate_inq_renew_energy_amndts.pdf)

<sup>4</sup> ANEDO Submission to the COAG Working Group on Climate Change and Water – Design Options for the Expanded National Renewable Energy Target Scheme 30 July 2008. Available at: <http://www.edo.org.au/policy/080730nrets.pdf>

- The 2020 target should be increased beyond 20% in order to ensure that renewable energy becomes the major source of energy generation in Australia;
- The 20% target should be increased in the period of 2020 to 2030 to ensure that renewable energy continues to become an increasingly significant proportion of Australia's energy mix, rather than being fixed at 20%; and
- Prior to 2030 there should be a comprehensive review to establish whether the RET scheme should continue beyond that date. It should not be a foregone conclusion that the scheme will cease in 2030, as the scheme may still be needed if incentives are still required for promoting renewable energy at that time.

To ensure that the legislation is operating to achieve its objectives, ANEDO also recommends that the legislation should require regular reviews, as opposed to a 'one off' review in 2014. For example, section 522A of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) requires that legislation be reviewed at intervals of not more than 10 years. In the context of the RET scheme, the need to ensure that the scheme is operating effectively in the context of the renewable energy sector and possible changes in the market, ANEDO submits that a regular review of the legislation's effectiveness and operation every 5 years would be appropriate.

## **Specific comments on Part 6 of the Discussion Paper**

### **Small-scale Renewable Energy Scheme (SRES) (5)**

ANEDO supports the policy position adopted by the Government to establish a separate SRES that will require liable entities under the LRET to surrender 'SRECs' in proportion to their LRET liability.

In particular, we support the proposal that SRECs will have a fixed price (rather than a market driven price) as this will provide certainty on returns for households, community groups and businesses that wish to invest in small-scale renewable energy. ANEDO also supports the proposal that there will be no cap on the creation of SRECs, as this means that the potential take-up of small-scale renewable energy by individuals and groups will have no limit, which in turn should support renewable energy production going beyond the current '20% by 2020' target.

While only briefly alluded to in the Discussion Paper due to ongoing consideration by COAG, ANEDO also strongly encourages the inclusion of additional small-scale technologies to further stimulate research into and development of new and alternative energy forms.

Finally, ANEDO supports the proposed independent review of the SRES in 2012 to consider various aspects as to the operation of the SRES, including: considering a framework for determining eligibility under the RET for small-scale technologies; and developing a framework for an independent regulator to set future REC prices. As noted above, ANEDO also submits that the entire RET scheme should be reviewed every five years to identify any reforms needed to ensure that the legislation is operating effectively and meeting its objectives to achieve the committed targets by 2020, and beyond.

### **SRES implementation options (5.3)**

ANEDO submits that regardless of which option (Option 1 or 2) is ultimately adopted to implement the SRES, the central focus must be on ensuring that there is adequate incentive for households, community groups and businesses to take up the opportunity to install small-scale renewable energy infrastructure. To ensure that the SRES provides this incentive, it is critical that participants can receive payment for their SRECs in a timely and efficient manner. Long time-lags between the creation of the SREC and the guaranteed payment will inevitably act as a disincentive to investment in renewable energy technologies due to the capital outlay necessary to be made by the household or business investing in the small-scale renewable energy technology.

While ANEDO recognises that a degree of certainty for liable entities in what their annual SREC liability will be is a relevant consideration, it should not be the overarching consideration. Markets are inherently subject to a degree of uncertainty and so liable entities under the RET scheme should be accustomed to operating in this kind of environment. ANEDO therefore submits that regardless of which option is chosen to implement the SRES, the most important consideration is to ensure that householders, businesses and community groups have sufficient incentive to invest in small scale renewable technology, including that they are recompensed for the sale of SRECs in a timely and efficient manner.

Although ANEDO does not strongly advocate for either SRES Option outlined in the Discussion Paper, it does urge the Government adopt certain amendments to eliminate certain negative consequences associated with each option.

If Option 1 is chosen, then liable entities would be required to ‘clear the pool’ of actual RECs created that year, shortly after the end of that compliance year. As a result, it may take up to a year for the individuals or businesses that created SRECs to be paid for them. This delay may prove to be a disincentive. However, ANEDO submits that it would be possible to establish a mechanism to require liable entities to surrender SRECs on a more regular basis throughout the compliance year and receive compensation for credits in a more timely fashion. For example, liability could be established quarterly, rather than annually, with credits issued by the end of the following quarter, thus ensuring that there is an ongoing flow in the sale and surrender of actual SRECs.

Similarly, if Option 2 is chosen, ANEDO again supports the quarterly surrender of SRECs to ensure that there is a regular ‘clearing of the pool’ of the estimate of SRECs to be created that year. This would provide householders and businesses with the timely purchase of their SRECs, as well as certainty for liable entities in respect of their annual SREC liability. Of course, it is imperative that because this option relies on future projections of SRECs anticipated to be created in the following year, the projection must be subject to the ‘true up’ mechanism, as proposed by the Discussion Paper.

In relation to the clearing house mechanism proposed in the Discussion Paper, ANEDO submits that this should be compulsory for all SREC transfers. This would ensure that there is transparency and accountability in the SREC market, and would also be more administratively simple. Universal participation in the clearing house mechanism would provide more certainty to households, small business, and also to any installers (who provide their customers upfront with the SREC payment in exchange for the ownership of their SRECs), since they would not need to seek out the liable entity purchasers for

their SRECs which could be difficult for individuals to do. The clearing house mechanism would provide a suitable 'one stop shop' for those who have generated SRECs to sell them with minimal effort.

### **Large-scale Renewable Energy Target (LRET) (6)**

As previously stated, ANEDO supports the separation of the SRES and LRET.

Since the proposed LRET will continue to operate in essentially the same manner as the original RET scheme, in addition to the matters already noted in this submission, it is appropriate to reiterate certain issues raised in previous submissions, that are now applicable to the LRET specifically. ANEDO submits that the Government should implement the following recommendations:

- Renewable energy producers must be required to demonstrate that their operations are ecologically sustainable;
- Wood waste should be removed as an eligible source of renewable energy because of the significant environmental impacts of logging activities on forests and biodiversity; and
- Some limitations should be considered in relation to the banking of LRECs to ensure that the target is not compromised by possible future flooding of the market with banked RECs.

ANEDO strongly supports the review of the uptake of small-scale systems in 2014 to ensure that the 20% target by 2020 will be achieved, in the event that the deployment of small scale technology is lower than currently anticipated.

### **Other Issues (7)**

#### **Assistance for emissions-intensive, trade-exposed (EITE) entities (7.3)**

ANEDO remains concerned about the assistance proposed for EITEs through partial exemptions from liability under the RET scheme, as this proposed assistance will undermine the efficacy of the scheme. Specifically, ANEDO is concerned that the Government continues to rely on the forthcoming passage of the CPRS legislation as grounds to justify the excessive levels of assistance to be provided to EITEs under the RET scheme, despite the high degree of uncertainty as to if or when the CPRS will become law. Even if the CPRS does become law, EITEs will, in any event, receive high levels of compensation through that legislation, and therefore it is unwarranted to include assistance in the RET scheme in addition to the CPRS package.

In this context, ANEDO recommends that no assistance or exemptions should be given to EITEs under the RET scheme. To do so is completely counterintuitive to increasing the impetus to invest in renewable energy sources and to encourage energy intensive industry to move towards utilising renewable energy. This is particularly critical given that it will be EITEs who consume the most energy in Australia - as previously noted by ANEDO, the aluminium industry alone consumes 10 to 15 per cent of Australia's

electricity<sup>5</sup>. ANEDO therefore submits that the EITE assistance proposed for the RET scheme should be removed.

#### **Voluntary surrender of Renewable Energy Certificates (7.4)**

Finally, ANEDO supports the proposal to permit individuals and organisations to purchase and voluntarily surrender RECs in the LRET to drive additional renewable energy generation. Adoption of this proposal makes it more likely that the nation's renewable energy target can exceed the current '20% by 2020' goal. However, while it is important to have this option available, ANEDO submits that the target itself should be further strengthened, such that the burden of achieving a renewable energy contribution of beyond 20% of Australia's energy production falls on polluters, in accordance with the 'polluter pays' principle, rather than on concerned individuals or organisations.

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<sup>5</sup> See ANEDO Submission on the Renewable Energy Target scheme – exposure draft legislation- 13 February 2009. Available at: <http://www.edo.org.au/policy/090219ret.pdf>