Parliamentary Committees

Liquid Fuel Supply (Ethanol) Amendment Bill 2014

Report No. 52
State Development, Infrastructure and Industry Committee
October 2014

State Development, Infrastructure and Industry Committee

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Chair's foreword

This report presents a summary of the State Development, Infrastructure and Industry Committee's examination of the Liquid Fuel Supply (Ethanol) Amendment Bill 2014.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles to the legislation, including whether it has sufficient regard to rights and liberties of individuals and to the institution of Parliament.

The committee is strongly of the view that a biofuels mandate must have bipartisan support to be successful and to provide the industry with investment certainty over the long term. There is a clear opportunity to develop the biofuels industry in Queensland but further work needs to be undertaken to establish a stable policy framework.

As the Bill was largely copied from the Liquid Fuel Supply (Ethanol) Amendment Bill 2008, it has not taken into account the current policy context, considered the developments in the broader biofuels industry, or assessed the lessons learned from ethanol mandates introduced in New South Wales and New Zealand. The failure to take these factors into consideration prior to the Bill's introduction has meant that the committee cannot support the Bill.

On behalf of the committee, I thank those organisations and individuals who lodged written submissions on the Bill and others who informed the committee's deliberations.

I would also like to thank the officials from the Department of Energy and Water Supply who briefed the committee; the committee's secretariat; the Technical Scrutiny of Legislation Secretariat; and the Queensland Parliamentary Library and Research Service.

I commend the report to the House.

David Gibson MP
Chair

October 2014

Abbreviations and definitions

BAA	Biofuels Association of Australia
barrel (petroleum)	159 litres (42 gallons[1])
Bill	Liquid Fuel Supply (Ethanol) Amendment Bill 2014
BREE	Bureau of Resources and Energy Economics
committee	State Development, Infrastructure and Industry Committee
department	Department of Energy and Water Supply
EPA	Environmental Protection Agency
EPGP	Ethanol Production Grants Program
ERF	Emissions Reduction Fund
explanatory notes	Liquid Fuel Supply (Ethanol) Amendment Bill 2014, explanatory notes
FLP	fundamental legislative principle
gallon (US)	3.785 litres. One imperial gallon equals approximately 1.2 US gallons[2]
GBR	Great Barrier Reef
LFS Act	*Liquid Fuel Supply Act 1984*
LSA	*Legislative Standards Act 1992*
NSW	New South Wales
RET	Renewable Energy Target
RFS	United States Renewable Fuel Standard
SLC	Scrutiny of Legislation Committee

1 *Meriam-Webster Dictionary*.
2 *Macquarie Concise Dictionary*, 4th edition.

Recommendations

Recommendation 1 **15**

The committee recommends the Liquid Fuel Supply (Ethanol) Amendment Bill 2014 not be passed.

Recommendation 2 **15**

The committee recommends the Department of Energy and Water Supply develops a policy on biofuels and consults with the Australian Government to achieve national consistency.

Recommendation 3 **15**

In considering any future ethanol mandate the committee recommends:

- the Department of Energy and Water Supply develops a public education campaign to focus on the benefits of ethanol-blended fuel as an alternative fuel and to enhance consumer confidence in relation to vehicle compatibility,
- the mandate be expanded to include other biofuels, and
- a comprehensive analysis of the unintended consequences of the New South Wales mandate be undertaken.

1 Introduction

1.1 Role of the committee

The State Development, Infrastructure and Industry Committee (the committee) was established by resolution of the Legislative Assembly on 18 May 2012 and consists of government and non-government members.

The committee's primary areas of portfolio responsibility are:[3]

- State Development, Infrastructure and Planning
- Energy and Water Supply, and
- Tourism, Major Events, Small Business and the Commonwealth Games.

1.2 The referral

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for considering:

- the policy to be given effect by the Bill, and
- the application of the fundamental legislative principles to the Bill.

On 3 April 2014, the Liquid Fuel Supply (Ethanol) Amendment Bill 2014 (the Bill) was referred to the committee for examination and report. In accordance with Standing Order 136(1), the Committee of the Legislative Assembly agreed to extend the committee's reporting date to 24 October 2014.

1.3 The committee's inquiry process

On 26 May 2014, the committee called for written submissions by placing notification of the inquiry on its website, notifying its email subscribers and sending letters to a range of relevant stakeholders. The closing date for submissions was 1 August 2014. The committee received 12 submissions (see Appendix A for list of submitters).

On 27 and 28 July 2014, the committee travelled to New Zealand and met with representatives from the University of Canterbury, Wood Technology Research Centre, the Ministry of Business, Innovation and Employment, New Zealand Petroleum and Minerals and the Energy Efficiency and Conservation Authority.

On 27 August 2014, the committee held a public briefing with the Department of Energy and Water Supply (the department). On 10 September 2014, the committee held a public hearing in Brisbane (see Appendix B for list of witnesses).

On 15 and 16 September 2014, the committee visited the Mackay Renewable Biocommodities Pilot Plant developed by the Queensland University of Technology and hosted by Mackay Sugar and the Dalby Bio-refinery operated by United Petroleum.

The submissions and the transcripts of the public departmental briefing and public hearing are available from the committee's webpage at www.parliament.qld.gov.au/sdiic.

1.4 Policy objective of the Bill

The policy objective of the Bill is to amend the *Liquid Fuel Supply Act 1984* to require a minimum ethanol content in relation to the total volume of motor spirit sales in Queensland (i.e. to introduce an 'ethanol mandate').

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[3] Schedule 6 of the *Standing Rules and Orders of the Legislative Assembly*, effective from 31 August 2004 (amended 1 July 2014).

2 Examination of the Bill

2.1 What are biofuels?

There are two key biofuels with commercial prospects in Australia: ethanol and biodiesel (referred to as first generation biofuels).

Ethanol is an alcohol that can be used as a fuel and is produced from various sugars through a fermentation and distillation process. Ethanol can be produced industrially or from the fermentation of biomass feedstocks. Biomass feedstocks include corn starch, sugarcane juice, crop residues such as corn stover and sugarcane bagasse, purpose-grown grass crops, and woody plants.

Australia's ethanol is currently produced from wheat, sorghum and C grade molasses. Although it is possible to produce ethanol from biomass and urban waste, these processes are experimental and not yet commercialised in Australia.

Ethanol comprises approximately 1% of the road transport fuel market and around 14% of total petrol sales. It is argued that ethanol is a relatively costly transport fuel to produce in Australia and the existence of the industry to a large extent relies on government support, such as the Ethanol Production Grants Program (EPGP).[4]

Biodiesel is typically made from vegetable oils, animal fats and used cooking oil. It can also be produced from various non-food crops such as Pongamia and algae. Biodiesel is predominately used as fuel for heavy vehicles and off-road transport.

The biofuels industry is said to be in its infancy in Australia and the future development of the industry is subject to critical uncertainties such as energy prices, consumer preference, government policy and technology advancements.[5]

Second generation biofuels (non-commercialised) involve producing ethanol from cellulosic feedstocks (i.e. crop waste, grasses and trees). Ethanol production using second generation technology is aimed at producing ethanol from widely available feedstocks in a more economical way and a reduction in full life-cycle CO_2 emissions.[6]

2.2 Ethanol mandates in Australian and other jurisdictions

Over the years, a number of jurisdictions throughout the world have implemented ethanol mandates.[7] Mandates currently range between 2% and 24%.[8] At present, New South Wales (NSW) is the only Australian jurisdiction with an ethanol mandate (currently 6%).

4 Australian Government, Bureau of Resources and Energy Economics, 'An assessment of key costs and benefits associated with the Ethanol Production Grants program', February 2014, p 6.

5 Australian Government, Rural Industries Research and Development Corporation, Biofuels in Australia – issues and prospects, May 2007, p 3.

6 Australian Government, Biofuels Taskforce, *Report of the Biofuels Taskforce to the Prime Minister*, August 2005, p 30.

7 For example, Angola; Argentina; Brazil; Canada; Costa Rica; Ethiopia; European Union; Guadalajara (Mexico); Heilongjian, Jilin, Liaoning, Anhui and Henan (China); Kisumu (Kenya); India; Indonesia; Jamaica; Malawi; Mozambique; New South Wales (Australia), Panama, Paraguay, Peru, Philippines; Sudan; Vietnam; Zimbabwe: Jim Lane, 'Biofuels mandates around the world: 2014'. All links in section were accessed on 14 October 2014.

8 Paraguay has a 24% ethanol mandate; Guadalajara in Mexico has a 2% ethanol mandate: Jim Lane, 'Biofuels mandates around the world: 2014'. Brazil's ethanol mandate is currently at 20% but has been as high as 25%: 'Ethanol history – from alcohol to car fuel'.

Queensland

While an ethanol mandate for Queensland has been proposed a number of times in recent decades, none has eventuated.[9]

In September 2002, Mr Mike Horan MP, introduced the Liquid Fuel Supply Amendment Bill which sought to introduce a 10% ethanol mandate. The bill failed at Second Reading in November 2002.

In 2006, Premier Peter Beattie MP proposed a 5% ethanol mandate to commence in 2011. In late 2010, Treasurer Andrew Fraser MP announced that the Government was postponing the mandate for 12 months, at least in part due to proposed changes to the federal excise on ethanol.

In May 2008, Mrs Rosemary Menkens MP, introduced a Private Member's bill seeking to introduce an ethanol mandate for Queensland. The bill failed at Second Reading in November 2008.

New South Wales

New South Wales currently has an ethanol mandate of 6%.

The *Biofuels Act 2007* initially required that major retailers and primary wholesalers ensure the volume of ethanol sold by the seller (in petrol-ethanol blend) be not less than 2% ethanol per volume of all petrol (including petrol-ethanol blend) sold by the seller during a specific period. The percentage of ethanol to be included in the total increased to 4% and subsequently to 6%.[10]

A person who fails to comply with a minimum biofuel requirement under the *Biofuels Act 2007* (NSW) is guilty of an offence. The offender is subject to a maximum penalty of 500 penalty units ($55,000), or in the case of a second or subsequent offence, to a maximum penalty of 5,000 penalty units ($550,000).[11]

The Minister may exempt a person from compliance with the minimum biofuel requirement if the Minister is satisfied that one or more of the following circumstances exist and that those circumstances, separately or in combination, justify the grant of the exemption:

- it is uneconomic for the person to comply with the requirement because of the price at which the person is reasonably able to obtain ethanol,
- the person has taken, is taking or will take all reasonable steps to comply with the requirement,
- other circumstances as are prescribed by the regulations for the purposes of the section.

The Minister must consider any advice provided by the Expert Panel.[12]

The *Biofuels Act 2007* enables the Minister to suspend the operation of the ethanol mandate if satisfied that compliance with the requirement:[13]

[9] Note, however, the *Motor Spirit Vendors Acts, 1933 to 1934* and the Motor Spirit Vendors Regulations of 1934 prescribed the price for, and quantity of, power alcohol manufactured in Australia to be purchased and paid for during the period of the currency of a motor spirit vendor's license. Petrol importers were able to determine how the fuel was used. 'Power alcohol' is now known as 'fuel ethanol'. The power alcohol plant in Sarina, Queensland operated from 1927 – 1957. The Motor Spirit Vendors Regulations were revoked by the *Regulatory Reform Act 1986.* The *Motor Spirit Vendors Act 1933 to 1934* was repealed by the *Liquid Fuel Supply Act Amendment Act 1988*. See John Murray Davis, *A History of Power Alcohol in Australia: A study of industry development with particular reference to Queensland*, 1988, pp xiii, 189, 341, 384, 407, 472.

[10] *Biofuels Act 2007* (NSW), ss 6, 3.

[11] *Biofuels Act 2007* (NSW), s 10. A penalty unit has the value of $110: *Crimes (Sentencing Procedure) Act 1999* (NSW), s 17.

[12] *Biofuels Act 2007* (NSW), s 15. See also s 24.

- is uneconomic as a result of the price at which volume fuel sellers are reasonably able to obtain ethanol or industry-wide ethanol shortages, or
- may result in a risk to public health or safety, or
- may have an adverse effect on the retail price of petrol for motorists, or
- may have an adverse effect on grain or food stock availability, or
- may substantially inflate grain or food stock prices, or
- may have a significant adverse environmental impact on water availability or quality, soil fertility and health or biodiversity, or
- should be suspended for some other extraordinary reason.

The following table from the Independent Pricing and Regulatory Tribunal report on ethanol supply and demand in NSW shows how sales of ethanol blend petrol increased in NSW following the introduction of the mandate in 2007.[14]

Table 2.2 Annual sales of ethanol blend, 2006 to 2011 (ML)

	2006	2007	2008	2009	2010	2011
NSW	30	163	677	1,048	1,764	2,208
VIC	4	5	25	105	134	92
QLD	114	325	605	819	904	577
AUS	148	493	1,307	1,972	2,803	2,877

Note: NSW sales includes Australian Capital Territory sales. NSW, VIC and QLD sales may not equal AUS sales due to small sales in other States.

Source: Australian Petroleum Statistics (APS).

While the current ethanol mandate in New South Wales is 6%, the actual ethanol percentage of petrol sold is only approximately 3.4%.[15] Capricorn Conservation Council attributed this to the inability of ethanol producers to provide consistent supply.[16] Caltex submitted that the Bill's mandate is 'largely analogous' to NSW's mandate and thus also would be unlikely to meet the set targets.[17]

13 *Biofuels Act 2007* (NSW), s 17.

14 The table also shows the drop in sales in Queensland between 2010 and 2011. The Australian Competition and Consumer Commission considers that the Queensland Government's October 2010 announcement that it had decided not to proceed with an ethanol mandate and the impact on production of the 2011 floods contributed to the reduced sales of ethanol blend: Independent Pricing and Regulatory Tribunal, *Ethanol supply and demand in NSW: Final Report*, 2012, p 15. The Victorian Labor Government launched the policy *Driving growth: a road map and action plan for the development of the Victorian biofuels industry* in 2007 setting out a range of initiatives to encourage the development of a biofuels industry in Victoria and proposing a target of 5% biofuels consumption by 2010. The current Coalition Government appears to be funding a range of biofuel initiatives rather than mandating ethanol content. See, for example, 'Vic Coalition announces $500,000 biofuels boost', *Media Statement*, 5 October 2011; '$4.8 million biodiesel facility opens in Melbourne', *Media Statement*, 29 May 2012.

15 'Biofuels results achieved, period 1 April – 30 June 2014'. Further results for 2014 and earlier periods are available at http://www.resourcesandenergy.nsw.gov.au/energy-consumers/sustainable-energy/office-of-biofuels/biofuels-results.

16 Capricorn Conservation Council, Submission No. 5.

17 Caltex, Submission No. 4. Caltex attached its February 2014 submission to the NSW Government's Ethanol Mandate Consultation paper addressing the purported shortcomings in the NSW legislation to its submission to the committee.

Dalby Bio-Refinery stated that the NSW ethanol mandate has been 'very successful in driving investment in the NSW Ethanol Industry', but TfA Project Group contended that the ability for an oil company to seek an exemption if no adequate supply of ethanol is available has meant that no oil company has invested in ethanol production in Australia.[18]

RACQ considered the NSW mandate is too high and has resulted in inflated fuel bills for motorists.[19] RACQ is particularly concerned that consumers in NSW are now purchasing 17% more premium unleaded than in January 2010 because of concerns about using ethanol blend petrol, particularly in older vehicles.[20]

New Zealand

The ethanol used in New Zealand is produced domestically using whey, a by-product of the dairy industry, or imported from Brazil.[21]

New Zealand had an ethanol mandate for about two months in 2008. Part 3A of the *Energy (Fuels, Levies and References) Act 1989* (NZ) provided for a biofuel sales obligation, under which every fuel supplier's fuel sales had to include a minimum percentage of biofuels. The target was 2.5% ethanol by 2012, commencing on 1 October 2008 at 0.5% and rising annually in 0.5% increments.[22] However, the incoming National Party Government fulfilled an election promise by repealing the provisions.

Currently, ethanol has an excise exemption of 50.5 cents per litre. The exemption only applies to the petrol proportion of the fuel.[23] The *Petroleum Products Specifications Regulation 2002* permits the retail sale of ethanol blends of up to 10%.

The committee learned in New Zealand that the lack of import protections associated with the ethanol mandate made it difficult for local producers to compete with imported ethanol.

Brazil

Brazil produces ethanol from sugarcane. It is the world's second largest producer of ethanol fuel (behind the United States).[24]

Brazil has had a flexible ethanol mandate (within pre-set limits) since 1993.[25] The level of the mandate is dependent on 'the size of [Brazil's] domestic sugar crop, sugar prices, gasoline prices, and ethanol prices.'[26] It is currently 20%.[27]

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18 United Dalby Bio-Refinery, Submission No. 6; TfA Project Group, Submission No. 1.

19 RACQ, Submission No. 8.

20 RACQ, Submission No. 7.

21 Energy Efficiency and Conservation Authority (EECA), 'What are biofuels?'

22 New Zealand Parliament, Local Government and Environment Committee, *Biofuel Bill*, pp 2 – 3. See also, 'New Zealand Bio-Fuels Bill Update 2008', USDA Foreign Agricultural Service Global Agriculture Information Network report, pp 1 – 2. The proposal in the bill as introduced was to have a mandate of 3.4% by 2012, commencing at 0.53% on 1 July 2008 and rising in increments. It was earlier planned that the target would be at 2.25%: 'New Zealand targets 3.4% biofuels obligation by 2012', Green Car Congress, 13 February 2007.

23 New Zealand, Ministry of Business, Innovation & Employment, 'Duties, taxes and direct levies on motor fuels in New Zealand from 1 July 2014'.

24 Herman Wang, 'US ethanol producers look to exports, if 2014 RFS caps domestic demand', 20 November 2013.

25 This has been the case since 2003: 'History of ethanol fuel in Brazil', Wikipedia.

26 Robert Wisner, 'Biofuels mandates outside the U.S.', *AgMRC Renewable Energy & Climate Change Newsletter*, February 2013.

27 Jim Lane, 'Biofuels mandates around the world: 2014'.

United States of America

The United States' Renewable Fuel Standard (RFS) program commenced in 2006 with the objective of reducing both greenhouse gas emissions and the country's reliance on imported oil. The *Energy Independence and Security Act 2007* amended the relevant provisions in the *Clean Air Act* to establish volume standards for renewable fuel, such as ethanol, to be used in transportation.[28] For example, the prescribed volume of renewable fuel for 2013 was 16.55 billion gallons.[29]

The United States Government has assisted industry to meet the legislated targets for biofuels by investing 'more than $1 billion in research, development, and demonstration projects to improve and scale up low-cost biomass conversion technologies and to ensure a reliable supply of high-quality commodity feedstocks for conversion.'[30]

Nowadays, most petrol sold in the United States is E10.[31] To be able to meet future legislative obligations, it will be necessary for higher ethanol blends, such as E15 or E85, to be used or more fuel to be sold because the E10 'blend wall' has been reached.[32] As there are some limitations on using higher ethanol blends, the Environmental Protection Agency (EPA) proposed to adjust the statutory 2014 volume requirements.[33]

2.3 The Bill's proposed ethanol mandate

Overview

Clause 5 of the Bill proposes to insert a new section, Part 5A, into the *Liquid Fuel Supply Act 1984* (LFS Act) to require a minimum ethanol content in relation to the total volume of motor spirit sales in Queensland.

The mandate is proposed to be applied to primary wholesalers, to sales to persons in Queensland or for delivery in Queensland. It is not proposed to be applied to wholesalers selling to other wholesalers.

The proposal is different to the legislative mandate in operation in NSW which applies the mandate to a prescribed class of retailers that own 20 or more sites.[34]

Staged application

The Bill proposes a staged application of a mandate. The proposal is to apply a 5% ethanol mandate in the first three years (the initial period). A regulation could also prescribe a different timeframe and different fixed percentage. It is then proposed that a subsequent period (a prescribed day) would apply a fixed percentage of ethanol of 10% (if not otherwise prescribed by regulation).

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28 Christopher Grundler, Director, Office of Transportation and Air Quality, Office of Air and Radiation, US Environmental Protection Agency, 'Statement to the US Senate Committee on Environment and Public Works', 11 December 2013, pp 1 – 2.

29 *Energy Independence and Security Act 2007*.

30 United States, Department of Energy, Office of Energy Efficiency & Renewable Energy, 'Bioenergy FAQs'.

31 Marianne Lavelle, 'US proposes first reduction in ethanol mandate', National Geographic, 15 November 2013.

32 The blending wall refers to the amount of ethanol gasoline companies are permitted to blend with petroleum-based fuel. US Federal standards set the amount at 10 percent of gasoline consumption: downloaded on 22 October 2014 from: http://phys.org/news149191981.html#jCp.

33 Christopher Grundler, Director, Office of Transportation and Air Quality, Office of Air and Radiation, US Environmental Protection Agency, 'Statement to the US Senate Committee on Environment and Public Works', 11 December 2013, p 3.

34 Public departmental briefing transcript, 27 August 2014, p 8.

The staged application and ability to apply a different timeframe or fixed percentage of ethanol by regulation is intended to provide the industry with time to adapt to the mandate.

Penalties

The Bill proposes a maximum penalty of 200 penalty units ($22,770) or 12 months imprisonment if a wholesaler does not meet the requirements of a fixed percentage of ethanol in fuel sales.

Exemptions

The Minister may grant an exemption to a wholesaler from having to comply with the mandate if the Minister is satisfied the wholesaler cannot obtain, at the price prescribed by regulation, a sufficient quantity of ethanol to enable the wholesaler to comply.

Returns

The Bill proposes that at the end of each relevant period, a wholesaler must provide the Minister with a return that provides information in relation to—

- the total volume of motor spirit, including motor spirit-ethanol blend, sold during the relevant period,
- the total volume of ethanol, in the form of motor spirit-ethanol blend, sold during the relevant period, and
- any other information prescribed by regulation.

The wholesaler would also be required to keep sufficient records to enable it to provide the Minister with a return that includes details of transactions and other matters that may be prescribed by regulation.

A failure to provide the Minister with a return or keep sufficient records could result in a maximum penalty of 200 penalty units. Additionally, a person who provides the Minister with knowingly false or misleading material could face a maximum penalty of 200 penalty units or 12 months imprisonment.

Comments from stakeholders

Submitters were divided over the proposed introduction of an ethanol mandate. Businesses associated with the production of biofuels supported the Bill.[35] In general, submitters associated with motoring and those from environmental groups did not support a mandate. Environmental groups were supportive of certain biofuels but were concerned about the possible environmental impacts of an ethanol mandate.[36]

Both the BAA and RACQ submitted that a mandate should be set at 2% in 2016 with an increase to 3% by 2020.[37] United Dalby Bio-refinery proposed a 3% mandate from January 2015 moving to a 6% mandate from January 2017.[38]

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35 See, for example, TfA Project Group, Submission No. 1; Consolidated Bio Diesel Pty Ltd t/a Ecotech Biodiesel, Submission No. 2; Bioenergy Plantations, Submission No. 3; United Dalby Bio-Refinery, Submission No. 6; Biofuels Association of Australia, Submission No. 9; Mackay Sugar Limited, Submission No. 11.

36 See, for example, Caltex Australia, Submission No. 4; Capricorn Conservation Council, Submission No. 5; RACQ, Submission No. 7; WWF-Australia, Submission No.8. Note, however, United Petroleum is an exception: see Submission No. 6.

37 Biofuels Association of Australia, Submission No. 9; RACQ, Submission No. 7, BioEnergy Plantations Australia Pty Ltd, Submission No. 3.

38 United Dalby Bio-refinery, Submission No. 6.

A number of submitters were supportive of a mandate that included biodiesel. Consolidated Bio Diesel recommended a mandate of 1 to 2% which included both ethanol and biodiesel and BioEnergy Plantations Australia recommended a mandate be extended to include 2% biodiesel.[39]

Some submitters suggested the mandate should apply to fuel retailers.[40] The BAA stated:[41]

> *The BAA believes that it is important that some of the lessons learned from the NSW implementation be applied in the application of a mandate in Queensland. It would be ideal if the requirement for meeting the mandated percentage was applied at the retail level rather than the wholesale level. By placing the onus on the retailer, this would then provide incentive for all retailers to provide ethanol blended fuels…*

Other submitters had concerns with the implementation timeframe and suggested it is too short.[42] The application of a mandate needs to ensure sufficient lead time in order to take into account the construction of storage and blending facilities at terminal and depots and the costs of conversion/upgrade of retail sites.[43]

Caltex advised that the costs of introducing ethanol to a site would depend on the characteristics of each site. Caltex estimated:[44]

- if there was appropriate configuration in place at a site (i.e. tankage, pipework and dispensers) the costs to introduce ethanol would be around $25,000 to $30,000 for tank cleaning, installation of filters, signage and other works. Any reconfiguration of pipelines may incur an additional $25,000 or $30,000.
- the replacement cost of a large tank is about $200,000 to $300,000 (not including costs of any disruption to the business operation during removal and installation). Replacement of service station tankage would be a minimum of $1 million but this could vary substantially between sites.

In relation to the ability for a wholesaler to be exempt from complying with the mandate, submitters suggested:

- it is critical that the granting of exemptions under the proposed legislation cannot be abused by oil companies simply through their inaction,[45] and
- thresholds for eligibility for exemptions must be transparent so the associated compliance regime can be transparent. Exemption criteria could include site tankage issues, site competitiveness, interstate supply, other supply chain issues, site volume, and site availability.[46]

RACQ stated in relation to the application of the NSW mandate:[47]

> *There are various exemptions handed out regularly. We are very keen for that situation not to be repeated in Queensland and would hope for a lower initial percentage mandate and that to be ramped up over a longer time period.*

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39 Consolidated Bio Diesel Pty Ltd, Submission No. 2; BioEnergy Plantations Australia Pty Ltd, Submission No. 3. See also, Biofuels Association of Australia, public hearing transcript, 10 September 2014, p 11.
40 United Dalby Bio-refinery, Submission No. 6; Biofuels Association of Australia, Submission No. 9.
41 Biofuels Association of Australia, Submission No. 9.
42 RACQ, Submission No. 7.
43 Caltex Australia, Submission No. 5.
44 Caltex correspondence to the committee.
45 TfA Project Group, Submission No. 1.
46 Caltex Australia, Submission No. 5.
47 Public hearing transcript, 10 September 2014, p 8.

2.4 Impacts of an ethanol mandate

The committee received contrasting information in relation to the potential impacts of an ethanol mandate which could be used to mount arguments to either support or not support its introduction.

Environmental

Unlike fossil fuels, ethanol is a renewable fuel. It can be produced from a variety of feedstock, including sugar cane and sorghum. A key reason posited for introducing a mandate is the environmental benefits that can be attained.

Depending on the feedstock used, an ethanol mandate can result in reduced greenhouse emissions. Mackay Sugar told the committee that the use of 'C' molasses feedstock results in 'greenhouse gas abatement of over 80% when compared to unleaded petrol'.[48]

Submitters stated that replacing petrol with ethanol improves air quality.[49] BioEnergy Plantations Australia said that this was because using oxygenated fuels results in more complete combustion, meaning the car is more efficient.[50]

An ethanol mandate can, however, lead to adverse environmental effects, such as on biodiversity, if native forests, for example, are cleared to grow biofuel crops or grow food crops displaced by biofuel crops.[51] WWF-Australia submitted that any expansion of agricultural areas in the Great Barrier Reef (GBR) catchment to provide feedstock for an ethanol plant could lead to degradation of the GBR.[52] Capricorn Conservation Council suggested that increasing ethanol production from sugar cane would, amongst other things, encourage expansion of cultivation into more marginal soils and increase the requirement for fertilisers (often manufactured from fossil fuel sources).[53]

Second generation biofuel production may provide greater environmental benefits as it is intended to use waste agricultural or forest products or algae.

Health

Some submitters commented on the health benefits of an ethanol mandate due to improvements in air quality.[54] TfA Project Group, for example, stated that E10 fuel reduces carcinogenic particulate emissions by over 30%, benzene emissions by 25% and total toxic mass emissions by 13% compared to conventional gasoline.[55] Dalby Bio-Refinery asserted that the NSW ethanol mandate has improved air quality and public health in the Sydney airshed on the basis that ethanol reduces particulate emissions from cars thus reducing lung cancer deaths.[56]

Economic

An ethanol mandate as proposed by the Bill can have both positive and negative economic impacts. It may, for example, contribute to the development of, and investment in, a fuel industry in

[48] Mackay Sugar, Submission No. 11. But note, in some cases, it takes more energy to produce ethanol than it provides and thus raises emissions: Kimberly Elliott, 'Biofuels and the food price crisis: A survey of the issues', Center for Global Development, Working Paper number 151, August 2008.

[49] See, for example, RACQ, Submission No. 7; BioEnergy Plantations Australia Pty Ltd, Submission No. 3; United Dalby Bio-Refinery, Submission No. 6; Biofuels Association of Australia, Submission No. 9.

[50] BioEnergy Plantations Australia Pty Ltd, Submission No. 3.

[51] New Zealand Parliament, Local Government and Environment Committee, *Biofuel Bill*, p 4.

[52] WWF-Australia, Submission No. 8. See also, Capricorn Conservation Council, Submission No. 5.

[53] Capricorn Conservation Council, Submission No. 5.

[54] See, for example, Biofuels Association of Australia, Submission No. 9; TfA Project Group, Submission No. 1; United Dalby Bio-Refinery, Submission No. 6.

[55] TfA Project Group, Submission No. 1. See also, BioEnergy Plantations Australia Pty Ltd, Submission No. 3.

[56] United Dalby Bio-Refinery, Submission No. 6. See also, Biofuels Association of Australia, Submission No. 9.

Queensland.[57] On the other hand, according to Capricorn Conservation Council, an ethanol mandate could distort the market because 'it fails to consider economic forces on food and fibre products, varying availability of such products due to climatic conditions, competing markets, and full product life cycle analysis including comparative environment 'footprint' of expanding or converting limited suitable farmland for ethanol'.[58]

Impact on consumers

The RACQ was concerned that consumers may have less choice of fuels at the bowser if the ethanol mandate means that the availability of regular unleaded petrol is reduced or eliminated. If regular unleaded is unavailable, some motorists would have to purchase premium unleaded petrol (which is more expensive than regular unleaded petrol) because their cars are incompatible with ethanol blend petrol. Some other motorists will purchase premium unleaded because they are unsure whether their vehicle will be damaged by an ethanol blend fuel.[59]

BAA advised the committee that currently over 91% of vehicles in Queensland are compatible with E10 and the number of ethanol-blend incompatible vehicles is reducing.[60]

Fuel economy and price differential of ethanol blend fuel compared with regular petrol

Ethanol is generally more expensive to produce than petrol but, as discussed below, it is subject to a reduced excise rate. As a result, ethanol blend fuel generally sells for a few cents less per litre than a litre of regular unleaded petrol. However, cars use about 3% more E10 compared to regular unleaded petrol and therefore, according to the RACQ, 'the cost of increased fuel consumption will be greater than the savings from buying E10.' The RACQ asserted that, at current prices, E10 would need to be 4.5 cents per litre cheaper than regular unleaded petrol before it becomes economical to buy.[61]

Impact on food prices

Depending on the feedstock, an ethanol mandate could result in inflated food prices.[62] In the United States, for example, corn is grown for both ethanol and food. It has been argued that an increase in the corn ethanol mandate from 4 billion gallons in 2006 to over 12 billion by 2011 contributed to a doubling of the price of corn.[63] However, TfA Project Group, BioEnergy Planations Australia Pty Ltd and BAA argued that Australia's existing ethanol plants have minimal impact on food supply.[64] TfA Project Group argued that a 10% mandate in Queensland would be unlikely to have any major impact on the price of sugar.[65]

Regional development

Ethanol production can provide benefits for regional economies by providing employment and an alternative market for produce.

One of the rationales for the Bill is to stimulate regional and rural development through the creation of an alternative and stable market for feed stock produced in Queensland and the creation of new

57 Explanatory Notes, p 1.
58 Capricorn Conservation Council, Submission No. 5.
59 RACQ, Submission No. 7.
60 Biofuels Association of Australia, Submission No. 9.
61 RACQ, Submission No. 7.
62 See, for example, RACQ, Submission No. 7.
63 Charles Kenny, 'Congress wakes up to the bad news about biofuels', *Bloomberg Businessweek*, 6 January 2014.
64 TfA Project Group, Submission No. 1. This is in contrast to the US, for example, where corn is the primary feedstock for ethanol production.
65 TfA Project Group, Submission No. 1.

jobs in the ethanol industry.[66] It has been suggested that a number of projects are proposed for Queensland if a certain market for biofuels is established.[67] In response to this statement, the department advised:[68]

> *With respect to how* [a] *state based ethanol mandate would assist industry development it is important to understand both existing ethanol production capacity and potential ethanol production requirements. In Queensland the two existing plants have capacity of approximately 140 megalitres (ML). A five per cent mandate on the volume of total motor spirit sales could produce total demand in the order of 200ML. This means the bulk of the mandate would be met by the two existing plants. The balance could be made up from expansions to existing Queensland plants, imports from New South Wales (Manildra plant) or the establishment of an additional small plant in Queensland. This would mean that a five per cent mandate would most likely provide support to existing facilities rather than delivering additional industry development. As outlined in TfA's submission, a mandate of ten per cent could be met by one additional large scale facility.*

The Dalby Bio-Refinery is one of the largest employers in Dalby.[69] In addition, the business benefits the local farming community through its purchase of sorghum, effectively setting a 'floor price' for the product.[70] This is consistent with the comment made by Consolidated Bio-diesel that 'on farm incomes increase when supported by Biofuel mandates'.[71]

2.5 Policy context

Any consideration of an ethanol mandate needs to contemplate the current policy context at a state and federal level.

Australian Government

Fuel Security

A policy rationale for the Bill is to reduce Queensland's reliance on foreign oil imports and Queensland motorists' exposure to the vagaries of the global oil market.

Some submitters were supportive of the use of biofuels as an alternative supply in order to improve fuel security in Australia.[72]

The BAA stated that fuel security is a big issue in Australia as a result of a reliance on imported fuels and the closure of refineries.[73]

In relation to fuel security, the committee was advised:[74]

- the Federal Government has established the National Oil Supplies Emergency Committee (NOSEC) responsible for advice in relation to the management of a response to a national liquid fuel emergency.

66 Explanatory Notes, p 1.
67 See, for example, Biofuels Association of Australia, Submission No. 9.
68 Department of Energy and Water Supply, correspondence dated 12 September 2014.
69 United Dalby Bio-Refinery, Submission No. 6.
70 When the Dalby Bio-Refinery is operating at full capacity, it buys 16,000 tonnes of sorghum from farmers on the Darling Downs: United Dalby Bio-Refinery, Submission No. 6.
71 Consolidated Biodiesel t/a Ecotech Biodiesel, Submission No. 2.
72 TfA Project Group, Submission No. 1; Consolidated Bio Diesel Pty Ltd, Submission No. 2; BioEnergy Plantations Australia Pty Ltd, Submission No. 3; RACQ, Submission No. 7; Biofuels Association of Australia, Submission No. 9.
73 Biofuels Association of Australia, Submission No. 9.
74 Department of Energy and Water Supply, correspondence dated 12 September 2014.

- there have been several studies into liquid fuel security and they have concluded that Australia does not have an identified security problem with oil and fuel supplies within the next few decades. In 2011, the Australian Government released a Liquid Fuel Vulnerability Assessment which concluded that adequacy, in terms of suppliers being able to keep up with demand, has been maintained. This is likely to continue over the medium term and potentially to 2035.

Additionally, on 3 September 2014, the Senate referred an inquiry into Australia's transport energy resilience and sustainability to the Rural and Regional Affairs and Transport References Committee to report by the last sitting day in March 2015.

Fuel excise and Ethanol Production Grants Program

Since 18 September 2002, fuel ethanol produced in Australia has been classified to Item 11 (K) of the Schedule to the *Excise Tariff Act 1921* and subject to an excise duty at a rate of 38.143 cents per litre. An equivalent customs duty applies to imported fuel ethanol.[75]

The Ethanol Production Grants program (EPGP) has been in operation since 2002 and was designed to support production and deployment of ethanol as a sustainable alternative transport fuel in Australia. The EPGP provided full excise reimbursement, at the current excise rate, to producers for ethanol supplied for transport use in Australia from locally derived feedstock.

In February 2014, the Bureau of Resources and Energy Economics (BREE) report found that the EPGP was a significant cost to taxpayers.[76]

On 13 May 2014, the Australian Government announced the EPGP would cease on 30 June 2015.[77] It had previously been intended that the subsidy would remain until 2021.[78] As a result, the Government expects to make net savings of $120 million over six years from 2015-16.[79]

As well as ceasing the EPGP, the 2014-15 Commonwealth Budget lowered the fuel excise on domestically produced ethanol to zero from 1 July 2015 to 30 June 2016. The following table shows that from 1 July 2016, the excise rate will increase by 2.5 cents per litre per year for five years until it reaches 12.5 cents per litre.[80]

Date of effect	1 July 2015	1 July 2016	1 July 2017	1 July 2018	1 July 2019	1 July 2020
Excise rate	0.000	2.500	5.000	7.500	10.000	12.500
Customs duty	38.143	38.143	38.143	38.143	38.143	38.143
Difference	38.143	35.643	33.143	30.643	28.143	25.643

75 Australian Government, Biofuels Taskforce, 2005, p 30.
76 Australian Government, Bureau of Resources and Energy Economics, 'An assessment of key costs and benefits associated with the Ethanol Production Grants program', February 2014.
77 Australian Government, Australian Taxation Office, 'Ethanol Production Grants Programme – cessation'.
78 Laura Tingle, 'Ethanol policy goes full circle despite lobbying', *Financial Review*, 9 May 2014.
79 Australian Government, *Budget measures: budget paper no 2: 2014-15*, 2014, p 165.
80 Australian Government, Australian Taxation Office, 'Ethanol Production Grants Programme – cessation'. The table is extracted from Parliament of Australia, 'Taxation treatment of ethanol and biodiesel'.

In relation to the removal of the EPGP the BAA stated:[81]

> *It is going to make it very challenging for new entrants in particular to actually get up because they are not going to have that grant. With any new investment in this sector you are coming up against a player which has been around for 100 years, has written off their capital and has a very low cost of production base. You need an opportunity to pull that capital back. That is what the ethanol producers grants used to provide. If the fuel indexation part of that whole package does not go through then the removal of the ethanol producers grant will have a devastating effect even on the current producers because it will most likely make it uneconomic for them to produce product.*
>
> *…*
>
> *… With the way that it is structured at the moment, with the indexation and the removal of the grant and the phase-in process, ethanol can still be economic and can still be produced and will still be produced. So it can support it in a mandated sense. What I am saying is that I think it will make it more difficult, as a result of that decision, for new entrants because it will be a less attractive investment.*

Renewable Energy Target

The Renewable Energy Target (RET) is designed to encourage investment in new large-scale renewable power stations and the installation of new small-scale systems, such as solar photovoltaic and hot water systems in households. The Renewable Energy Target also aims to ensure that at least 20% of Australia's electricity supply will come from renewable sources by 2020.

On 28 August 2014, the expert panel provided its report to the Australian Government. The report concluded the costs of the scheme to the community outweighed its benefits and that significant change was required. The recommendations are currently under consideration by the government.[82]

Emissions Reduction Fund

On 18 June 2014, the Australian Government introduced Carbon Farming Initiative Amendment Bill 2014 to establish the Emissions Reduction Fund (ERF) to replace the carbon tax and provide a transition for the Carbon Farming Initiative by amending the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth). The ERF would be the primary mechanism to reduce carbon emissions.[83] The Bill is currently before the Senate.

Queensland Government

The committee was not made aware of any Queensland Government policy relating to biofuels. The committee was advised the Department of Energy and Water Supply does not currently have resources allocated to biofuels and is more focused on stationary energy rather than liquid fuels. The Department of Agriculture, Fisheries and Forestry has an interest in this area.[84]

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81 Public hearing transcript, 10 September 2014, pp 13-14.

82 Australian Government, Clean Energy Regulator, 'About the Renewable Energy Target Scheme', http://ret.cleanenergyregulator.gov.au/About-the-scheme/about-schemes.

83 Australian Government, Department of the Environment, 'Emissions Reduction Fund', http://www.environment.gov.au/climate-change/emissions-reduction-fund.

84 Public departmental briefing transcript, 27 August 2014, p 1.

2.6 Committee comment

Standing Order 132(1)(a) requires the committee to determine whether to recommend the Bill be passed. After examining the Bill, and considering issues raised in submissions and at the public hearing, the committee has determined the Bill should not be passed.

The committee's decision to recommend the Bill not be passed is hinged on the disparate, unstable policy framework at a national and state level.

Whilst there is merit in introducing an ethanol mandate, the committee does not have confidence that the policy foundations or market conditions are present at this point in time to ensure its success.

It is acknowledged that a mandate would support the existing local producers who could expand production to meet the additional requirements of a mandate. However, it was suggested to the committee that a mandate would achieve little in contributing to broader regional development.[85]

The committee did not receive any evidence to indicate that a mandate would be supported by governments in the long term. Strong government support for the use of ethanol is a vital factor in ensuring the success of any ethanol mandate. It was suggested this is one of the reasons Brazil's ethanol mandate has been so successful.[86]

The federal government's support for the industry has wavered since the introduction of the Bill and has been a cause for concern during past introductions. The recent decision to end the EPGP has contributed to policy unrest and investment uncertainty.

The analysis of this Bill has highlighted that Queensland's climate and agricultural industry provides a significant advantage in developing a robust biofuels industry with a particular focus on biorefining.[87] Emerging second generation technology has potential to extend beyond the production of ethanol and should be investigated further and supported by the Queensland Government.

The department advised the committee:[88]

> *Queensland is, in fact, well positioned to develop a reputation in the use of novel feedstocks such as sweet sorghum, forest and municipal waste and bagasse and oil crops such as pongamia and algae to develop high-value commodities alongside biofuels. Queensland already has world-leading research expertise in these feedstocks.*

The committee recommends the Department of Energy and Water Supply develops a policy on biofuels and engages with the Australian Government to achieve national consistency and greater support.

The committee also heard that consumer education is a dominant factor in determining the success of an ethanol mandate. Misinformation about the benefits of ethanol as an alternative fuel and its compatibility with modern vehicles has led to low consumer confidence. RACQ and the BAA recommended educating the public about which cars can safely use ethanol blend fuels in tandem with a mandate.[89]

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85 Public departmental briefing transcript, 27 August 2014, p 6.

86 Mackay Sugar, Submission No. 11.

87 Biorefining is the process of converting biomass (organic matter) into value-added chemicals, plastics and fuels: Deloitte Access Economics, 'Economic impact of a future tropical biorefinery industry in Queensland', September 2014, p 2.

88 Public departmental briefing, 27 August 2014, p 2.

89 RACQ, Submission No. 7; Biofuels Association of Australia, Submission No. 9.

In considering any future ethanol mandate the committee recommends:

- the Department of Energy and Water Supply develops a public education campaign to focus on the benefits of ethanol-blended fuel as an alternative fuel and to enhance consumer confidence in relation to vehicle compatibility,
- a mandate be expanded to include other biofuels, and
- a comprehensive analysis of the unintended consequences of the NSW mandate be undertaken.

Recommendation 1

The committee recommends the Liquid Fuel Supply (Ethanol) Amendment Bill 2014 not be passed.

Recommendation 2

The committee recommends the Department of Energy and Water Supply develops a policy on biofuels and consults with the Australian Government to achieve national consistency.

Recommendation 3

In considering any future ethanol mandate the committee recommends:

- the Department of Energy and Water Supply develops a public education campaign to focus on the benefits of ethanol-blended fuel as an alternative fuel and to enhance consumer confidence in relation to vehicle compatibility,
- the mandate be expanded to include other biofuels, and
- a comprehensive analysis of the unintended consequences of the New South Wales mandate be undertaken.

Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) states that 'fundamental legislative principles' (FLP) are the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

The committee has examined the application of the fundamental legislative principles to the Bill.

3.1 Right and liberties of individuals

Section 4(2)(a) provides legislation must have sufficient regard to the rights and liberties of individuals.

Proposed sections 35AE and 35AF prescribe a maximum penalty of 200 penalty units or 12 months imprisonment, for breaches in relation to initial and subsequent increased minimum percentage ethanol content.

Proposed sections 35AH and 35AI prescribe a maximum penalty of 200 penalty units for breaches in relation to returns and records relating to ethanol content in motor spirit sales.

Proposed section 35AJ prescribes a penalty of 200 penalty units or 12 months imprisonment for giving the Minister a return containing information the person knows is false or misleading in a material particular.

The former Scrutiny of Legislation Committee (SLC) considered the reasonableness and fairness of treatment of individuals as relevant in deciding whether legislation has sufficient regard to rights and liberties of individuals.

Consequences imposed by legislation should be proportionate and relevant to the actions to which the consequences are applied by the legislation. The OQPC Notebook states 'the desirable attitude should be to maximise the reasonableness, appropriateness and proportionality of the legislative provisions devised to give effect to policy'.[90]

Further, a penalty should be proportionate to the offence. The OQPC Notebook states 'Legislation should provide a higher penalty for an offence of greater seriousness than for a lesser offence. Penalties within legislation should be consistent with each other'.[91]

<u>Committee comment</u>

The current penalties under the *Liquid Fuel Supply Act 1984* include financial penalties and imprisonment. For example, a person shall not threaten, obstruct, attempt to obstruct or intimidate the Minister or an authorised person in respect of the exercise of his or her powers or the discharge or his or her functions or duties. The maximum penalty is $2,000 or 3 months imprisonment. The same penalty applies to providing knowingly false or misleading information under the current Act.

The proposed penalties in the Bill could be seen to be inconsistent with the current Act. The committee raises the issue of whether the penalties are proportionate and justified in the circumstances for the consideration of the House.

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90 Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p 120.

91 Ibid.

3.2 Institution of Parliament

Appropriate delegation of legislative power

Section 4(4)(b) of the LSA provides legislation has sufficient regard to the institution of Parliament if it subjects a delegated legislative power (instrument) to the scrutiny of the Legislative Assembly.

Clause 5 proposes new sections 35AD, 35AE, 35AF, 35AG, 35AH, 35AI and 35AJ which provide for certain matters to be prescribed at a later date by regulation.

Section 35AD provides for an initial period and a relevant period to be prescribed by regulation. There is provision in the Bill in the case that there is no period prescribed by regulation. However, other provisions in the Bill provide for a maximum penalty of 200 penalty units, in the event the primary wholesaler does not comply in the time prescribed in section 35AD.

Sections 35AE and 35AF provide a maximum penalty of 200 penalty units for failure to ensure a minimum percentage ethanol content in motor spirit sales, with the percentage able to be prescribed by regulation. The Bill provides for a minimum percentage if the percentage is not prescribed.

Section 35AG provides for an exemption, at the Minister's discretion, if the wholesaler cannot obtain a sufficient quantity of ethanol to enable compliance with the section – at a price prescribed by regulation. There is no information provided on how this price is to be calculated.

Sections 35AH and 35AI require the keeping of records and the provision of returns based on future information 'to be prescribed by regulation'. Very high penalties apply for non-compliance. In particular, section 35AH provides for a return to be in an approved form and contain certain information, including:

(iii) any other information prescribed by regulation.

This allows for a broad level of information to be prescribed by regulation, for which a failure to comply may result in a very high penalty.

The explanatory notes did not identify this FLP issue or provide any justification for the use of a regulation to prescribe the above matters.

Committee comment

The committee is satisfied that the ability to declare a period or fixed percentage of ethanol content via regulation is necessary to facilitate the changing nature of the industry and that these matters would be subject to a disallowance motion. Due to the high penalties for non-compliance with information requirements to be provided by regulation, the committee considers the information requirements should be included in the Bill in order to be subject to greater parliamentary scrutiny. In addition, the methodology for calculating the price of ethanol used to satisfy an exemption under proposed section 35AG should also be included in the Bill.

3.3 Proposed new or amended offence provisions

The committee commented on the proposed provisions in part 3.1.

Clause	Offence	Maximum penalty
5	Replacement 35AE(2) The primary wholesaler must ensure the volume of ethanol in motor spirit-ethanol blend sold by the wholesaler during each relevant period is at least a fixed percentage of the total volume of all motor spirit, including motor spirit-ethanol blend, sold by the wholesaler during the relevant period.	200 penalty units ($22,770) or 12 months imprisonment

	Replacement 35AF(2) The primary wholesaler must ensure the volume of ethanol in motor spirit-ethanol blend sold by the wholesaler during each relevant period is at least a fixed percentage of the total volume of all motor spirit, including motor spirit-ethanol blend, sold by the wholesaler during the relevant period.	200 penalty units ($22,770) or 12 months imprisonment
	Replacement 35AH(1) A primary wholesaler must, within 1 month after the end of each relevant period, give the Minister a return complying with subsection (2).	200 penalty units ($22,770)
	Replacement 35AI(1) A primary wholesaler must, in the form and way, and for the period, prescribed by regulation, keep the records necessary to enable the wholesaler to give the Minister the returns required under section 35AH, unless the wholesaler has a reasonable excuse.	200 penalty units ($22,770)
	Replacement 35AJ(1) A person must not give the Minister a return containing information that the person knows is false or misleading in a material particular.	200 penalty units ($22,770) or 12 months imprisonment

3.4 Explanatory Notes

Part 4 of the LSA requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. The notes did not identify any of the FLP issues identified above as required by section 23(1)(f) of the LSA.

The notes did not comply with section 23 (1)(c) and (g) of the LSA as they did not provide:

- a brief statement about the way the policy objectives will be achieved by the Bill and why this way of achieving the objectives is reasonable and appropriate, and
- a brief statement of the extent to which consultation was carried out in relation to the Bill.

The notes are otherwise fairly detailed and contain the remaining information required by Part 4 and a reasonable level of background information and commentary to facilitate understanding of the Bill's aims and origins.

Appendices

Appendix A – List of submitters

Sub #	Name
1	Tam Faragher & Associates Pty Ltd
2	Consolidated Biodiesel t/a Ecotech Biodiesel
3	BioEnergy Plantations Australia Pty Ltd
4	Caltex Australia
5	Capricorn Conservation Council
6	United Dalby Bio-Refinery
7	RACQ Operations Pty Ltd
8	WWF-Australia
9	Biofuels Association of Australia
10	Confidential
11	Mackay Sugar
12	Confidential

Appendix B – List of witnesses at the public hearing held 10 September 2014

Witnesses	
1	Mr David Szymczak, Chief Operating Officer, United Dalby Bio-refinery
2	Ms Genevieve Graves, Manager, Public Policy Department, RACQ
3	Dr Ian Jeffreys, Policy Development Officer, Public Policy Department, RACQ
4	Mr Gavin Hughes, Chief Executive Officer, Biofuels Association of Australia
5	Mr Quinton Hildebrand, Chief Executive Officer, Mackay Sugar Ltd
6	Mr John Hodgson, Business Development Manager, Mackay Sugar Ltd
7	Mr Benn Barr, General Manager, Energy Pricing Consumer and Retail, Department Of Energy and Water Supply
8	Mr Tim Quirey, Director, Renewable and Alternative Energy, Department of Energy and Water Supply
9	Mr Ray Hopper MP, Member for Condamine

Dissenting Report

Rob Katter MP
Member for Mount Isa

PO Box 1968
Mount Isa QLD 4825
P: 07 4743 5149

Dissenting Report

Mr David Gibson MP
Chair
State Development, Infrastructure and Industry Committee

Dear Chair,

This dissenting report is written in accordance with the State Development, Infrastructure and Industry Committee's report on the *Liquid Fuel Supply (Ethanol) Amendment Bill 2014* (the Bill).

I do not support the committee's decision to recommend the Bill not be passed on the basis that this Bill has not taken into consideration the broader biofuels industry.

The Bill is intended to amend the *Liquid Fuel Supply Act 1984* with the inclusion of an ethanol mandate. This does not mean that future amendments of other alternative biofuel products or product groups cannot be implemented.

As stated in the committee's report recommendation 3, the expansion of the amendment to include biofuels as a single entity removes the fundamental point of the Bill's original purpose.

As the committee discovered through its extensive travel researching the Bill, Queensland's ethanol industry is developed and in place allowing for the mandated products required quantity to be adequately filled. Such data collection on biofuel product availability and current or future industry potential was not conducted making it an unreasonable suggestion for the committee to recommend the Bill not be passed based on exclusion of other biofuels in this amendment.

Also in recommendation 3, the committee suggests a comprehensive analysis of the New South Wales mandate, however, the committee noted on page 6: *'The proposal is different to the legislative mandate in operation in NSW which applies the mandate to a prescribed class of retailers that own 20 or more sites'.*

This implication of analysing policy that does not align with the amendment which the committee was assessing, would be both costly and unserviceable given that in the words of the committee, they are "different".

What I will say is that on the whole the committee report sees potential in the future of biofuels including ethanol with recommendation 2 suggesting the Department of Energy and Water Supply develops a policy on biofuels with which I agree.

They also took this further in recommendation 3 when presenting the idea of an education campaign focusing on the benefits of ethanol-blended and alternate fuels which I also support.

However, the need for an education campaign does not preclude the need for ethanol legislation now. The two are not mutually exclusive. In fact, with ethanol legislation passed, the education campaign would follow before the implementation of the new Act.

My reasoning for not supporting the committee's decision further to the above is well summed up by a statement made by Mr David Szymczak of United Dalby Bio-Refinery and United Petroleum to the committee during a public hearing. He stated:

"It is time for Queensland to mandate the use of ethanol in petrol to achieve social, economic, health and environmental benefits which are absolutely substantial."

Mr Szymczak also talked in depth about regional development and investment associated with an Ethanol mandate. A mandate that would create jobs, provide further income to sugarcane and sorghum producers and promote industry in regional centres across Queensland. This sentiment was backed up by Mr Quinton Hildebrand of Mackay Sugar Ltd who said:

"An ethanol mandate would provide an important plank in stimulating future growth in the sugar industry."

I respect the committee's points of reference in determining the recommendation for the Bill not to be passed, however I feel due consideration was not given to the situation regarding Australia's fuel security.

"I think fuel security is one of the single largest issues facing this country at the moment. We are now reliant upon 90 per cent of our petroleum coming in. We are going to be down to four refineries. We have only less than 30 days stock on hand of all fuel, and when we count up those 30 days that also includes things like bitumen and a whole lot of things which I cannot put in my car and run it on".

This comment by Mr Gavin Hughes, Biofuels Association of Australia during the committee's public hearing demonstrates that fuel security is a major issue that needs urgent addressing, which this Bill in part does.

Yours sincerely,

Rob Katter MP
Member for Mount Isa