Zali Steggall MP
FEDERAL MEMBER FOR WARRINGAH

25 September 2023

Department of Treasury
By email: PRRT@treasury.gov.au

Re: Submission on the *Treasury Laws Amendment (Measures for Consultation) Bill 2023: PRRT Deductions Cap* (PRRT Deductions Cap Bill)

Dear Treasury,

Thank you for the opportunity to make a submission on the *Treasury Laws Amendment (Measures for Consultation) Bill 2023: PRRT Deductions Cap* (PRRT Deductions Cap Bill).

Since elected in 2019, Warringah residents have expressed their frustration to me at the inadequacy of the tax system for multinationals, especially offshore oil and gas companies who often avoid paying both company tax and the Petroleum Resource Rent Tax (PRRT). This concern is shared by many Australians and leading tax commentators. Further, many small and medium sized business owners in my constituency find it grossly unfair that their businesses are not afforded similar leniencies to reduce taxable income and boost their investment profile.

In recent years, the failures of the PRRT have been further highlighted by offshore oil and gas companies enjoying windfall profits, yet many projects have not paid PRRT.

I welcome any reform that improves the PRRT and delivers more money to Australians. However, the amendments subject to the PRRT Deductions Cap Bill are weak. The bill fails to significantly increase revenue and continues to lock in favourable conditions for oil and gas companies who, despite this amendment, will continue to avoid paying their fair share of resources tax. Revenue that should go to supporting services for Australians.

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This reform brings forward $2.4 billion over the next four years, equating to $600 million per year. This amount is trivial in comparison to the super profits that have been generated by oil and gas companies in recent years.

My submission proposes changes to the PRRT Deductions Cap Bill that will further strengthen it. In summary these are:

1. Amending the Deductions Cap from 90% to 80%, which remains consistent with Treasury advice provided to government.
2. Removing the seven year exemption to ensure Australians have access to their fair share of resource rent revenue sooner, to support the delivery of services.

I also call on the government for further PRRT reform and broader taxation reform to ensure multinational companies, especially those exploiting Australian resources, pay their fair share of tax.

More must be done. This bill alone has such little net benefit to the Australian economy. This is more than a missed opportunity, it shows the government's continued support for the oil and gas industry ahead of Australians and lack of action on climate change. I have serious concerns as to whether these reforms are genuinely intended to deliver for Australians or merely gaslight them into believing the government has improved the PRRT.

Thank you for the opportunity to provide this submission. I look forward to working with the government to ensure the reform to the PRRT delivers proportional revenue to Australia, especially in circumstances where ordinary Australians are having to meet the increasing costs of living caused by accelerating climate warming impacts.

Yours sincerely,

Zali Steggall OAM, MP
Federal Member for Warringah

Submission on the *Treasury Laws Amendment (Measures for Consultation) Bill 2023: PRRT Deductions Cap* (PRRT Deductions Cap Bill)

Background

The PRRT has failed to deliver a fair return to Australians and has been in consistent decline over the past 30 years

The PRRT was designed to strike the balance of supporting Australia's revenue base by providing an equitable return to Australians from the extraction and sale of oil and gas, without discouraging investment.

In reality, it establishes Australia as one of the most favourable jurisdictions for oil and gas companies. Many projects avoid paying PRRT year after year, often allowing companies to take gas from Australia for effectively nothing. In 2020-21, PRRT was paid in relation to only 6 PRRT projects out of a total of 33 PRRT active projects[1].

PRRT collection peaked at $2.4 billion in 2000-01 and has since been in decline[2]. In terms of Australia's total government revenue from the oil and gas sector, it has gone from delivering 19% of total oil and gas revenue, to just 1% in 2020[3]. Substantial increases in revenue in the oil and gas sector over recent years has not being reflected by increases in PRRT payments to government. This is in stark contrast to jurisdictions such as Norway where government revenue has increased in proportion to oil and gas revenue.

Australia's PRRT is the weakest resource tax in the world

Australia has one of the weakest resource tax regimes in the world and one of the most generous to oil and gas companies.

Unlike the approach of other jurisdictions which raise substantial revenue and sovereignty funds from resource rent and export taxes and royalties, the PRRT fails to deliver fair value to Australians.

Norway's resource tax system, taxing 78% of export profits, has delivered a $2 trillion Sovereign Wealth Fund, supporting health care, childcare, and other social measures, all without discouraging investment. This year (2023), it is estimated that oil and gas export taxes will deliver AUS$145 billion to the Norwegian economy, equating to a staggering $107,000 per family[4].

The PRRT Deductions Cap as currently proposed, does nothing to increase the amount of revenue to Australians.

PRRT Deductions Cap Bill

This is a modest reform that fails to deliver more revenue for Australians

There have been extensive reviews of the PRRT including the 2017 Petroleum Resource Rent Tax Review (Callaghan Review)[5] and more recent Treasury Review of the Gas Transfer Price[6]. These reviews have made numerous recommendations for robust reform to deliver Australians their fair share of offshore oil and gas profits.

However, the PRRT Deductions Cap Bill implements a modest reform. If the objective of these amendments is to require the oil and gas sector to provide a fair return to Australians and raise more revenue, the government should be adopting more substantive reforms proposed by the Callaghan Review. These include, a shift to netback pricing and raising the PRRT rate. Both options would have increased revenue. Instead, this bill delivers revenue neutrality, merely bringing forward revenue rather than increasing it.

Despite the government's rhetoric[7], capping the availability of deductible expenditure to 90%, (ensuring 10% taxable profit to which the PRRT will apply), merely brings forward PPRT payments rather than directly increasing the amount payable.

Of particular concern, is that given the opportunity to responsibly deliver a fairer share of Australian resource profits to Australians, the government has chosen to prioritise the interests of oil and gas companies by adopting a 90% Deduction Cap instead of 80%. This is despite receiving advice from Treasury (evidenced in documents produced by Treasury under Senate Orders) that an 80% cap would be appropriate.

The bill is only expected to bring forward an additional $2.4 billion over the forward estimates, or just $600 million per year[8]. Numerous commentators have expressed dissatisfaction in the government's failure to amend the PRRT more broadly. Recently, the Former chair of the ACCC Rod Sims said that the government's revenue from its changes to the PRRT could have been at least three times the amount outlined in the budget[9].

Jason Ward from the Centre for International Corporate Tax Accountability and

Research has described this amendment as "too little, too late"[10] highlighting this amendment does nothing to change the status quo of gas companies 'getting gas from Australia for absolutely free'.

This is unacceptable and fails to meet the expectations of Australians.

Amendments to strengthen the draft PRRT Deductions Cap Bill

I am calling on the government to make the following amendments to strengthen this bill by:

1. **Adopting an 80% Deductions Cap**

An 80% deduction cap to increase the amount of taxable income that is brought forward by this bill. This would double the amount of revenue that would be subject to the 40% PRRT for that year.

I note that this deduction cap is supported by Treasury as evidenced by documents produced under a Senate Order. That advice clearly states that Treasury recommends an amendment to the PRRT to implement a deductions cap in the range of 80-90% as a *"way of getting an earlier return to the community from gas projects, while minimising changes to the PRRT framework, to help build public confidence in the PRRT regime's effectiveness and fairness."*[11].

No acceptable explanation has been given for why the government has adopted the weaker end of the range recommended by Treasury. I understand that the Government consulted with the oil and gas sector and has received a significant amount of lobbying on the issue. This gives rise to the inference that the government is more focussed on placating the oil and gas sector than increasing revenue for Australians from its resources. Together with my crossbench colleagues in the Senate including Senator David Pocock and Senator Jacquie Lambie, I strongly believe that the bill should be amended to reflect an 80% Deduction Cap.

2. **Removing the seven year exemption**

The bill currently outlines an exemption from paying PRRT for all new oil and gas projects for a period of seven years. This provision actively seeks to support the development of new oil and gas projects which is contrary to the government's claim to be committed to the Paris Agreement and keeping global warming below two degrees.

Supporting new oil and gas projects is inconsistent with Australia's commitment to the Paris Agreement. As recognised by the International Energy Association, there

must be no new oil and gas projects for the world to have any chance of limiting global warming to 1.5 degrees. It follows that Australian tax legislation should not make provision to support new projects or their profitability.

My position is that even the most aggressive and ambitious reforms to the PRRT would not negatively impact investment and project profitability. The PRRT is designed to be a tax that is triggered only when there are significant profits, therefore having limited impact on whether a project is bankable or not, despite claims made by the oil and gas companies.

Most Australian companies, particularly those that are trade exposed, have factored in long-term shadow pricing, including carbon prices and other fiscal impacts of regulatory changes for over 10 years.

There is no justification to include a seven year exemption and it should be removed from the legislation, or a shorter time considered.

Further Reform is needed

The Callaghan Review and more recently the Government's Review of Gas Transfer Pricing Arrangements[12] report from May 2023, have made numerous recommendations to government on how the PRRT can have improved design and become more 'fit for purpose'.

This has been echoed by leading economists including the Tax and Transfer Policy Institute, The Australia Institute and Grattan Institute.

It is time for Australia to decarbonise our economy, transition to renewable energy and stop approving new oil and gas projects. The PRRT will become less relevant over time as we transition away from oil and gas.

More extensive reforms to the PRRT are urgently required to raise revenue on the exploitation of natural resources that belong to all Australians.

These include:

1. **Reducing uplift** – The uplift rate at which losses are carried forward has a significant impact on when or if a project will ever pay PRRT. The 2017 Callaghan review identified exorbitant uplift rates that compound deductible expenditure as a major factor in the sector paying a trivial amount of PRRT.

In 2019-20 uplift rates resulted in deductible expenditure of $289 billion meaning the industry needs to produce this much profit before it is required to pay any PRRT[13]. Following the Callaghan review, uplift rates on new projects were reduced from Long Term Bond Rate (LTBR) + 15% to LBTR + 5%, however all expenditure declared and incurred before 1 July 2019 is still subject to the old rate meaning the vast majority of existing projects are still on the higher LBTR +15% uplift rate. Carried over deductions on LBTR +15% should be discontinued and the new rate applied to all projects.

2. **Changing gas transfer price to netback only** – Current gas residual pricing method undervalues gas. Under the current method exploration costs are excluded from upstream price, capital costs are subject to generous allowance meaning the estimate of profit is arbitrarily halved between upstream and downstream, therefore lowering the upstream profits that are liable for PRRT.[14]

3. **Increased PRRT percentage** – Australian LNG producers made an estimated $40 billion in profits in FY 2021-22 while total PRRT paid by the sector was just $1.65 billion[15][16]. Clearly there is huge scope to significantly increase the PRRT percentage without impacting the profitability of the sector.

4. **PRRT payments should not be deductible from company taxable income** – Currently PRRT payments are deductible from company taxable income. Since PRRT is on profits not expenses, it should not be deductible from company taxable income. PRRT should be additional to corporate tax as is the case in Norway where a 56% special tax (petroleum resource tax) is added to Norway's 22% corporate tax resulting in an effective 78% tax on oil and gas export profits[17].

[1] Treasury (2023) *Petroleum Resource Rent Tax: Review of Gas Transfer Pricing Arrangements* https://treasury.gov.au/sites/default/files/2023-05/p2023-388153.pdf
[2] ATO (2016) *Review of the Petroleum Resource Rent Tax (P8)* https://treasury.gov.au/sites/default/files/2019-03/R2016-001_Australian_Tax_Office.pdf
[3] The Australia Institute (2022) *Australia's tax system is failing to delivery the benefits of the gas boom* https://australiainstitute.org.au/post/australias-tax-system-is-failing-to-deliver-the-benefits-of-the-gas-boom/
[4] Norsk Petroleum (2022) *The Government's Revenues* https://www.norskpetroleum.no/en/economy/governments-revenues
[5] Treasury (2017) *Petroleum Resource Rent Tax Review* https://treasury.gov.au/sites/default/files/2019-03/R2016-001_PRRT_final_report.pdf

[6] Treasury (2023) *Petroleum Resource Rent Tax: Review of Gas Transfer Pricing Arrangements Final Report* https://treasury.gov.au/sites/default/files/2023-05/p2023-388153.pdf
[7] Treasury (2023) *Press conference, Blue Room, Canberra* https://ministers.treasury.gov.au/ministers/jim-chalmers-2022/transcripts/press-conference-blue-room-canberra-8
[8] Treasury (2023) *Changes to the Petroleum Resource Rent Tax* https://ministers.treasury.gov.au/ministers/jim-chalmers-2022/media-releases/changes-petroleum-resource-rent-tax
[9] The Guardian (2023) *Labor could and should have gone stronger on the petroleum resource rent tax* https://www.theguardian.com/commentisfree/2023/may/09/labor-could-and-should-have-gone-stronger-on-the-petroleum-resource-rent-tax
[10] The Sydney Morning Herald (2023) *'They're getting the gas for free': government dodges tougher tax reform* https://www.smh.com.au/politics/federal/they-re-getting-the-gas-for-free-government-dodges-tougher-tax-reform-20230508-p5d6nn.html
[11] Treasury, Confidential Advice to Government, various documents supplied under Senate Orders in June 2023, labelled 'confidential draft working document, not to be released or copied', Page 20
[12] Treasury (2023) *Petroleum Resource Rent Tax: Review of Gas Transfer Pricing Arrangements Final Report* https://treasury.gov.au/sites/default/files/2023-05/p2023-388153.pdf
[13] Kraal (2022) *Resource Rent Tax: Its Principles, Application and Need for Change in Australia* https://research.monash.edu/en/publications/resource-rent-tax-its-principles-application-and-need-for-change
[14] Gratton (April 2023) *Back in Black? P42* https://grattan.edu.au/wp-content/uploads/2023/04/Grattan-Back-in-Black-1.pdf
[15] The Australia Institute (2022) *Gas Giants Reap $40 Billion in Windfall War Profits:* Report https://australiainstitute.org.au/post/gas-giants-reap-40-billion-in-windfall-war-profits-report/
[16] The Australia Institute (2022) *Reforming the Petroleum Resource Rent Tax: A proposal to change its structure* https://australiainstitute.org.au/wp-content/uploads/2022/10/Reforming-the-Petroleum-Resource-Rent-Tax-WEB.pdf
[17] Norsk Petroleum (2023) *The Petroleum Tax System* https://www.norskpetroleum.no/en/economy/petroleum-tax/