Submission to Special Tax Regimes Unit, Treasury

PRRT anti-avoidance provisions

February 2024

The Conservation Council ACT Region is the peak non-government environment organisation for the Canberra region. Since 1981, we have spoken up for a healthy environment and a sustainable future for our region. We harness the collective energy, expertise and experience of our more than 40 member groups to promote sound policy and action on the environment.

We campaign for a safe climate, to protect biodiversity in our urban and natural areas, to protect and enhance our waterways, reduce waste, and promote sustainable transport and planning for our city. Working in the ACT and region to influence governments and build widespread support within the community and business, we put forward evidence-based solutions and innovative ideas for how we can live sustainably.

At a time when we need to reimagine a better future, we understand that the changes we need will only happen with the collective support of our community.

For further information please contact:

Elle Lawless, Executive Director, director@conservationcouncil.org.au.

Introduction

The Conservation Council ACT Region appreciates the opportunity to provide comments to the Special Tax Regimes Unit, Australian Government Treasury, regarding the anti-avoidance update of the Petroleum Resource Rent Tax (PRRT).[1]

The Synthesis Report of the IPCC's Sixth Assessment Report (AR6-SYR) released in March 2023 is unequivocal in its statements about the urgency required in global emissions reductions.

> *"Keeping warming to 1.5°C above pre-industrial levels requires deep, rapid and sustained greenhouse gas emissions reductions in all sectors. Emissions should be decreasing by now and will need to be* ***cut by almost half by 2030****, if warming is to be limited to 1.5°C."*[2]

Similarly, the International Energy Agency urges "a rapid shift away from fossil fuels" and is explicit in stating that

> *"Net zero means huge declines in the use of coal, oil and gas."*
> *"There is no need for investment in new fossil fuel supply. … The unwavering policy focus on climate change in the net zero pathway results in a sharp decline for fossil fuel demand."*[3]

To do this, Australia needs to concentrate efforts on energy efficiency and renewable energy and expedite the electrification of every machine that currently burns fossil fuels.[4] We simultaneously need to stop extracting, burning and exporting fossil fuels.

The Australian Government needs to utilise every lever available to it, including taxation, to end the free ride that the fossil fuel industry has been enjoying for decades.

The PRRT could be a valuable tool, but needs overhauling, not tinkering

The Government could tackle climate change whilst simultaneously tackling inequality if it determines these as priorities and follows through with appropriate policy and taxation settings, instead of pandering to the fossil fuel industry.

The resource rent tax concept was first developed in the 1970s for Papua New Guinea and has been applied in Australia since the 1980s[5] with the nominal purpose of ensuring "the Australian community receives a fair return on the extraction of Australia's finite petroleum resources while minimising disincentives for business to invest in the petroleum industry"[6]. However, the PRRT

---

[1] Australian Government Treasury, 2024, 'PRRT – anti-avoidance provisions and clarifying treatment of 'exploration' and MQPRs, https://treasury.gov.au/consultation/c2024-482289
[2] IPCC, 2023, 'Urgent climate action can secure a liveable future for all', Press release, 20 March, https://www.ipcc.ch/report/ar6/syr/downloads/press/IPCC_AR6_SYR_PressRelease_en.pdf
[3] International Energy Agency, 2021, *Net zero by 2050*, IEA, Paris, https://www.iea.org/reports/net-zero-by-2050, License: CC BY 4.0
[4] Saul Griffith, in ABC News, 2023, 'Australian Story: The electric plan to run a suburb off renewables', accessed 7 Nov 2023, https://www.youtube.com/watch?v=mSsKop_sdQY
[5] Kraal, D & Heffron, R, 2022, 'Resource rent tax: its principles, application and need for change in Australia', Australian Tax Forum, vol 37, iss 4, p559, https://openurl.ebsco.com/EPDB%3Agcd%3A6%3A4868454/detailv2?sid=ebsco%3Aplink%3Ascholar&id=ebsco%3Agcd%3A161596072&crl=c
[6] Tax Technical, 2018, 'Reform of the PRRT – uplift rate for expenditure and removing 'onshore' projects – draft legislation',

is not even “achieving its policy and fiscal objectives, and there have been no major developments to meet modern concerns about the energy sector and issues such as climate change.”[7] The design of the PRRT is fundamentally flawed: its structure is such that no PRRT revenue is generated until the project sponsor has recovered all of the capital outlay plus the permitted uplift factors, often many years later and long after peak returns.[8]

Fossil fuel company tax lawyers are highly effective in avoiding tax payments whilst their lobbyists demand support from Australian governments. For instance, Japanese gas company INPEX paid a mere 0.3% in income tax of the $41 billion income it made selling Australian gas between 2013 and 2022 and zero PRRT.[9] In 2022, the LNG industry exported 82 mega tonnes of liquefied Australian gas, contributing 47.9 mega tonnes of greenhouse gas emissions mostly from LNG production (which does not account for the emissions when that gas is combusted by the end user) and reaping record-high revenues of $91 billion.[10] Yet the Australian Government collected merely $1.6 billion via the PRRT, a paltry 1.76% of income. Instead, the federal and state governments shower the oil and gas industry with massive subsidies and tax breaks amounting to $11.1 billion in 2023.[11]

> *“Subsidies in the forward estimates have increased from $55.3 billion to a record $57.1 billion. This is 14 times greater than the balance of Australia’s Disaster Ready Fund, which is used to respond to climate disasters.”*

The PRRT has been effectively subsidising fossil fuel projects rather than raising revenue from them, whilst the mining companies manipulate our politics and policies, take this country’s resources for free and willfully pollute the planet. This is outrageous compared to the 26.9% income tax paid by the average single worker in Australia[12] who is then also forced to pay ever-increasing prices for the energy supplied by these profiteering (and mostly foreign) companies, and suffering the consequences of the climate pollution created by them.

By contrast, “since 1996 Norway has been taxing the profits of its oil and gas sector at 78%” comprised of 22% corporate tax plus 56% Special (petroleum) tax.[13]

Richard Denniss beautifully illustrated the backwards priorities of successive Australian Governments:

---

https://taxtechnical.com.au/reform-of-the-prrt-uplift-rate-for-expenditure-and-removing-onshore-projects-draft-legislation/

[7] Kraal, D & Heffron, R, 2022, ‘Resource rent tax: its principles, application and need for change in Australia’, Australian Tax Forum, vol 37, iss 4, p559, https://openurl.ebsco.com/EPDB%3Agcd%3A6%3A4868454/detailv2?sid=ebsco%3Aplink%3Ascholar&id=ebsco%3Agcd%3A161596072&crl=c

[8] Richardson, D, 2022, ‘Reforming the Petroleum Resource Rent Tax: a proposal to change its structure’, The Australia Institute, https://australiainstitute.org.au/wp-content/uploads/2022/10/Reforming-the-Petroleum-Resource-Rent-Tax-WEB.pdf

[9] Ogge, M, 2024, ‘Australian governments suck up to Japanese fossil fuel companies. Again.’, The Australia Institute, https://australiainstitute.org.au/post/australian-governments-suck-up-to-japanese-fossil-fuel-companies-again/

[10] Kraal, D, 2024, ‘Australian petroleum and coal resources: taxation, emissions and energy justice’, in: Heffron, RJ, de Fontenelle, L (eds), *The power of energy justice & the social contract. just transitions*, Palgrave Macmillan, Cham. https://doi.org/10.1007/978-3-031-46282-5_24

[11] Campbell, Rod et al (2023). “Fossil fuel subsidies in Australia 2023”. A report by The Australia Institute 4
May 2023 https://australiainstitute.org.au/report/fossil-fuel-subsidies-in-australia-2023/

[12] Van Dender, K, Pick, A & Cedano, L, 2023, ‘Taxing wages – Australia’, OECD Centre for Tax Policy and Administration, https://www.oecd.org/tax/tax-policy/taxing-wages-australia.pdf

[13] Bleakley, D, 2022, ‘Norway shows how Australia can get a fair return from oil and gas’, The Australia Institute, https://australiainstitute.org.au/post/norway-shows-how-australia-can-get-a-fair-return-from-oil-and-gas/

"In Norway, they tax the fossil fuel industry and they give university education to their kids for free. In Australia, we subsidise the fossil fuel industry and we charge our kids a fortune to go to uni. Choices matter. And the Australian Government collects more money from HECS than it does from the Petroleum Resource Rent Tax."[14]

Clearly, tightening the PRRT would be a step towards righting the priorities in favour of the climate and the Australian people, but the proposed updates need to be much, much stricter and significantly more ambitious to actually reap the taxation commensurate with the costs of climate pollution. The proposed capping of the PRRT's limit on defrayable costs at 90% of revenue would do "little more than move some PRRT revenue forward. It does not mean gas companies will being paying more PRRT over time."[15]

Given the aforementioned IPCC warning that global greenhouse gas emissions must be reduced by half by 2030, the PRRT's guiding principle of not disincentivising investment in the petroleum industry is outdated and the entire purpose of this tax scheme should be redesigned.

Exploration for new fossil fuel deposits should be prohibited and definitely not receive any form of funding, tax relief or subsidy from Governments.[16] Rehabilitation of ecosystems is also critical in the face of the extinction crisis and mining companies must be forced to complete these works, again not at taxpayer expense.[17]

Ideally, the PRRT should be completely overhauled with a new set of guiding principles that prioritises energy justice and transition to a clean energy future[18], rather than mining company interests. The Government must learn from the mistakes of past minerals tax package design and implementation and be firm about the higher purpose policy goals of net-zero global emissions and social equity.[19]

In addition to cutting climate pollution, effective taxation of the fossil fuel industry could be funding significant improvements in Australia's healthcare system, transition of the fossil fuel workforce, investment in efficient electrified transportation systems, free childcare and higher education, social housing, climate adaptation, environmental protection, foreign aid and so on. These are the systems and activities that would improve the lives of Australians and our regional neighbours.

Australia's mineral resources should be a seller's market where *we* set the terms of trade in the interests of a genuinely sustainable future for people and planet, not private profit.

---

[14] Denniss, R, 2024, Address to the National Press Club of Australia, The Australia Institute, 31 Jan 2024, https://australiainstitute.org.au/post/richard-denniss-national-press-club-address/

[15] Jericho, G & Thrower, J, 2024, 'Yes, the government collects more money from HECS than it does from the petroleum resource rent tax', The Australia Institute, https://australiainstitute.org.au/post/yes-the-government-collects-more-money-from-hecs-than-it-does-from-the-petroleum-resource-rent-tax/

[16] Wee, K & O'Hare, J, 2014, 'Australian oil and gas exploration: the dawn of a new fiscal regime?', *The APPEA Journal* vol 54, p529, https://doi.org/10.1071/AJ13102

[17] Wee, K, 2020, 'Decommissioning and rehabilitation: what's tax got to do with it?', *The APPEA Journal* vol 60, pp573-6, https://doi.org/10.1071/AJ19185

[18] Kraal, D, 2024, 'Australian petroleum and coal resources: taxation, emissions and energy justice', in: Heffron, RJ, de Fontenelle, L (eds), *The power of energy justice & the social contract. just transitions*, Palgrave Macmillan, Cham. https://doi.org/10.1007/978-3-031-46282-5_24

[19] Tilley, P, 2021, 'Australia's future tax system', Australian National University Tax and Transfer Policy Institute Working Paper 17/2021, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3944381#

Summary and Recommendations

Short of complete overhaul, the Conservation Council urges the Australian Government to maximise this opportunity to greatly strengthen the PRRT to become an effective tax collection mechanism that acts as a deterrent to fossil fuel extraction.

At the minimum, the Council recommends the following updates to the PRRT:

- eliminate all accumulated credits that allow gas companies to reduce their tax liability;[20]
- prohibit the deductibility of exploration costs – the world needs no new fossil fuel projects;
- significantly reduce the uplift rate for all categories of expenditure (preferably to zero, ie nothing additional to the long-term-bond-rate), substantially limit the time period to prevent companies from carrying deductions forward, and no refunds for losses;
- apply the updates to the PRRT to all existing and new fossil fuel projects regardless of location (onshore and offshore)[21], effective from 1 July 2024;
- include a 'windfall profits' provision to collect additional tax in proportion to excess profits from global fuel price increases not associated with direct production costs;[22]
- take into account a company's income, profits and tax paid in previous years (ie past behaviours) when calculating all future liabilities to ensure no further shirking of responsibilities;
- ensure that any tax relief for rehabilitation costs is offered only after rehabilitation works have been completed.

---

[20] Karp, P, 2023, 'Federal budget: Labor to collect billions more in petroleum resource rent tax', The Guardian Australia, 7 May 2023, https://www.theguardian.com/australia-news/2023/may/07/federal-budget-labor-petroleum-resource-rent-tax-prrt-wage-community-services-jim-chalmers-katy-gallagher

[21] Hepburn, S, 2023, 'What Australia's new gas tax will mean for new projects, the economy and the climate', The Conversation, 8 May 2023, https://theconversation.com/what-australias-new-gas-tax-will-mean-for-new-projects-the-economy-and-the-climate-205197

[22] Richardson, D, 2022, 'Reforming the Petroleum Resource Rent Tax: a proposal to change its structure', The Australia Institute, https://australiainstitute.org.au/wp-content/uploads/2022/10/Reforming-the-Petroleum-Resource-Rent-Tax-WEB.pdf