18 July 2024

Director
Production Tax Incentives Unit
Corporate and International Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Director,

The Smart Energy Council is pleased to support the Albanese Government's critical minerals production tax incentive. As a leading voice in the energy industry, we recognise the importance of critical minerals in the development of clean energy technologies.

A tax credit for critical minerals will help to ensure a stable and sustainable supply of these vital resources, while also supporting the growth of the clean energy industry. We urge policymakers to take swift action to implement this important measure.

The SEC is also pleased to support the overall Future Made in Australia plan. The Future Made in Australia agenda is about attracting and enabling investment, making Australia a renewable energy superpower, value-adding to our resources and strengthening economic security, backing Australian ideas and investing in the people, communities and services that will drive our national success.

Key Recommendations:

- Bring forward the start-date of the incentive to 1 July 2025
- Expand beyond initial refining to include midstream processing
- No new fossil fuels are required for the processing of critical minerals
- Expand the incentive to include the Strategic Minerals list

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Australia has some of the world's largest reserves of critical minerals like lithium, cobalt, and rare earth elements, which are important for low emissions technologies. Global demand for these minerals is ballooning and Australia is well placed to take advantage. Australia is already the largest producer of lithium and is well-positioned to meet future demand. The shift to net zero will increase the demand for critical minerals used in renewable energy technologies.

There is no need for new fossil fuels to process critical minerals. For there to be incentives given to critical minerals processing, there should be evidence of positive action towards electrifying processes supported by renewables, or using green hydrogen.

While we agree that supporting Australia's critical minerals industry increases Australia's economic resilience and security, we do not think the Government should think about economic resilience and security as mutually exclusive to net zero transformation (the two streams under the National Interest Framework). On the contrary: these two goals are inextricably linked and can - and should - be achieved concurrently through the provision of the FMIA funding. To this end, no FMIA investment support, including via the CMPTI, should be provided for projects that are powered by fossil fuels. There is no market barrier to investment in critical minerals projects powered by fossil fuels, and the Government should not be providing funding support for these projects.

The $7 billion tax incentive announced in the recent Budget to support critical minerals processing is well supported by both the SEC and the broader industry and will help to increase the value of our resources and build our capability in this area.

We know that this is a vital part of Australia realising its potential as a renewable energy, critical mineral and hydrogen superpower. However, it must be noted that the Production Tax Incentives are just one piece of the required policy. We look forward

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to seeing accelerated firmed renewable capacity, the entire package of the Nature Positive Reforms being completed as soon as possible, especially including the reformed EPBC Act, and ongoing reforms to ensure we have a workforce to deliver this transition.

In the instance of the vanadium industry, this Production Tax Incentive will facilitate the emergence of a comprehensive vanadium industry. By making it easier to secure funding for mining projects, it strengthens financial models. Additionally, it supports downstream processing of vanadium, its further refinement into vanadium electrolyte, and subsequently unlock commercially mature vanadium flow battery installations with a secure sovereign supply chain.

Response to the consultation paper

The Smart Energy Council is supportive of the Critical Minerals Tax Incentive.

A large portion of the discussion paper centres around the specific input costs and processes for individual proponents. These elements of the consultation are best discussed with the specific companies involved in the process.

In general, the eligibility criteria listed in this discussion paper is consistent with the Smart Energy Council's Pre-Budget submission proposal and with the general thrust of the provisions of the US Inflation Reduction Act and the recent tax ruling from the US authorities.

Having the Critical Minerals Processing Tax Incentive target the direct costs of processing and refining eligible minerals is in line with the earlier asks from industry. It is appropriate that the incentive not support mining or extraction activity and will be limited to processing expenditure to support activity that moves Australia further downstream of the mining stage.

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Having the incentive include eligible processing costs such as reagents, consumables, labor, utilities, maintenance, and logistics/transport, and exclude raw feedstock materials, depreciation, and finance costs is in line with the SEC's earlier asks. It is also appropriate that costs be apportioned to reflect only the expenditure on the processing of eligible critical minerals.

The current proposed eligible processing costs does not specify whether energy costs are included or excluded. If projects use renewable energy to refine the minerals, then renewable energy input costs (but not fossil fuel input costs) should be included as an eligible processing cost.

The refundable nature of the tax incentive is also strongly supported by the Smart Energy Council as it allows for companies without a tax liability to gain access to this incentive.

The start date of the Production Tax Incentive should be moved from 1 July 2027 to 1 July 2025. The sooner the industry can access these incentives, the sooner we can leverage the benefits outlined in the consultation paper. Given that the Production Tax Incentives are only paid based on actual production each year, this adjustment will not lead to cost overruns. An earlier start date will encourage quicker action from processors considering expansion or new operations, which, although likely to be few in number initially, will still lead to increased processing activities.

One area that requires changes is the expansion of the tax credit base scope beyond the initial refining stage. These incentives aim to enhance Australia's value-adding to critical minerals beyond the current work scope. Limiting these incentives to just the initial-stage processing restricts the potential for national value gain beyond the initial refining stage. Expanding this scope would align with the US IRA in certain areas, such as the current 45X IRA guidance, which includes both initial refining and active material processing. As our member organization Tesla states in their

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submission: “Mid-stream is a huge opportunity for Australia and one that can easily co-locate with refineries within existing industrial hubs, leveraging the same workforce, skills, and infrastructure (gas, electricity, water, chemical feedstocks, etc.) and capture value locally rather than just moving one step down the value chain from mining to refining and then shipping these powders separately offshore to let other countries gain the benefits of further processing and combining before it enters battery factories.” If we don’t focus on critical minerals value adding, we are missing significant economic opportunities for Australia. This must be a key focus for the Australian Government.

We also recommend that the eligible minerals be expanded to include the Strategic Minerals list. These five minerals (aluminium, copper, phosphorus, tin and zinc) play essential roles in the production of batteries, electric vehicles, solar panels and other climate solutions.

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Reporting Requirements

A reporting mechanism under the tax incentive scheme is very important to ensure that the incentive is being used appropriately and effectively. The tax incentive is designed to support the processing and refining of eligible critical minerals, and not to support mining or extraction activity. A public reporting mechanism would help to ensure that the costs being claimed under the incentive are in line with these criteria and that the incentive is being used to support the intended activities.

Ensuring strong social license and public support for the program is also crucial. The tax incentive is intended to support the growth of the clean energy industry and to help ensure a stable and sustainable supply of critical minerals. By demonstrating that the incentive is being used effectively and transparently, public support for the program can be maintained.

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