

Endua Pty Ltd
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4 November 2024

To: The Director
Production Tax Incentives Unit
Corporate and International Tax Division
Treasury

RE: Response to the “Hydrogen Production Tax Incentive” consultation paper – June 2024

Kindly find Endua’s response below to the Hydrogen Production Tax Incentive consultation paper – June 2024.

With a view to succinct feedback, the format of the responses are presented in bullet point format beneath the relevant section and question.

Company information

ENDUA Pty Ltd
www.endua.com

Endua is an Australian company developing advanced hydrogen electrolysis technologies. Combining 15 years of research and development by the CSIRO in PEM electrolysis and our team's extensive experience in hydrogen innovation, we are engineering a suite of technologies that enable the distributed on-site production of green hydrogen.

Our approach is uniquely focused on making it possible to produce hydrogen where it is needed, when it is needed, even at smaller scales - eliminating the need for long-distance transportation, and reducing the associated costs and environmental impacts.

Endua’s solutions are engineered and built at our South East Queensland facility and enable the rapid deployment of safe hydrogen technologies.

Founded in 2021 by our CEO Paul Sernia (PhD), Endua is backed by extensive technical research and development, electrical, manufacturing, and green energy industry experts; as well as through partnerships with trusted, reputable, global leaders such as Ampol, CSIRO, Main Sequence.

At Endua, our mission is simple:
Empowering industries to achieve self-sufficient, sustainable, cost-effective energy by harnessing renewables to their fullest potential.

Combining 15 years of research and development by the CSIRO in PEM electrolysis and our team's extensive experience in hydrogen innovation, we are engineering a suite of technologies that enable the distributed on-site production of green hydrogen.

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Who is eligible?

The HPTI will be available to corporations that are subject to Australian income tax throughout the relevant income year (except entities that are fully exempt from paying corporate income tax). This is necessary as the credit is being delivered through the tax system.

Questions

1. Please provide any feedback on the impact this incentive may have on your community, facility or industry.
 - a Anticipating that the HPTI will play a role in encouraging investment, facilitating FID decision-making for hydrogen projects, lead to confirmed offtake agreements, with subsequent, positive impact across upstream value chains and supply chains, from production gate to well.
2. Please provide any feedback on the proposed eligibility criteria.
 - a Within the context of developing a robust National Australian Hydrogen industry:
 - b The “learning-by doing” process occurs much faster and at lower relative cost in smaller to medium size projects, when compared to “investment-at scale” initiatives, leading to faster commercialisation of quality end-products, leading to faster outcomes for energy security, economic security and economic resilience.
 - c Recommended to reduce the 10MW minimum to 2 MW allowing for smaller discrete projects
 - d Allow for electrolyser aggregation across smaller discrete projects, in order to create larger MW supply.
3. What key factors would need to be accounted for in a definition of an eligible facility for the purposes of the HPTI?
 - a High percentage of equipment/components sourced from domestic supply chain; high alignment with “Future Made in Australia”)
 - b Identify the level of global and domestic supply chain vulnerability (well to production gate)
 - c Validated evidence of the ability to reduce carbon emissions across the entire value chain and comprehensive supply chains.
4. What key factors would need to be accounted for in a definition of Final Investment Decision (FID) for the purposes of the HPTI?
 - a From a “Made in Australia” manufacturer perspective, detailing what local content commitments have been made.
 - b A detailed Life of Project & Finance plan, including a committed start date and planned commissioning date.
 - c Acceptable ROI.
 - d Committed, guaranteed offtake agreements.
 - e Sufficient cash resources or access to capital to fully support project completion.
5. How long do you expect it will take for projects to reach first production following FID?
 - a n/a. To consider each project independently.
6. For foreign investors, do you currently encounter any impediments to investment in projects that would be eligible?
 - a n/a

Incentive amount

The \$2 per kilogram of renewable hydrogen will be provided to eligible corporations as a credit against their corporate income tax liability. Depending on the circumstances of the claiming company this means the offset may result in a cash refund, a reduced income tax liability or applied to preexisting tax liabilities.

Providing the support through the tax system will mean that all corporations can be eligible if they meet the base criteria, allowing them to have confidence to factor in the incentive into their financial models which will support investment decisions.

Refundability would provide cash flow to businesses that are not yet profitable from manufacturing hydrogen, allowing them to continue their operations while the market for hydrogen grows and their operations are further established.

What is eligible production?

The HPTI is designed to bring forward production of renewable hydrogen and is limited to projects reaching final investment decision before 2030. The HPTI will be claimable for each kilogram of renewable hydrogen produced between the 2027-28 and 2039-40 financial years through a process that results in an emissions intensity of less than 0.6kg of carbon dioxide equivalent up to the production gate. Producers will be able to access the incentive for a maximum of 10 years from first eligible production for each facility.

The Government is contemplating including requirements for grid connected electrolyser projects to match their hydrogen production with electricity generated in the same electricity grid in order to access the HPTI. For example, a project connected to the National Electricity Market (NEM) would be required to match their production with electricity generators connected to the NEM. This would mean that renewable hydrogen production does not inadvertently have a negative impact on our transition to net zero, by ensuring that the hydrogen is produced where the renewable energy is available.

It is not proposed to include further requirements on renewable energy generation for access to the incentive, such as additionality or hourly time-matching. Observed international experience has highlighted that compliance with these requirements increases operating costs for projects and can be difficult to achieve for early-stage projects. Such requirements will provide limited system benefits at the scale of foreseeable investment, and it is appropriate at the current stage of industry development to prioritise overcoming other barriers. We note, however, that Guarantee of Origin (GO) certificates will require renewable energy generation in the same year as the hydrogen production occurs. The HPTI will not prescribe which renewable hydrogen production pathways will be eligible. The threshold of 0.6kg of carbon dioxide equivalent up to the production gate is intended to provide support for only the cleanest hydrogen in line with the Government's decarbonisation goals. As such, it is expected that the majority of production will come through electrolysis.

A further eligibility requirement is that each production facility must also have a minimum capacity equivalent to a 10-megawatt electrolyser.

Compliance with the production facility minimum capacity requirements and emissions intensity of products will be verified through the Guarantee of Origin scheme, administered by the CER.

Participants will need to provide information about the capacity of facilities by registering production profiles under the GO scheme. They will also need to report the emissions intensity and quantity of hydrogen products as part of creating GO Certificates.

Questions

7. Please provide any feedback on the proposed emissions intensity threshold of 0.6kg of carbon dioxide equivalent up to the production gate.
 - a Agreed. 0.6kg of carbon dioxide equivalent per kg of hydrogen produced should be achievable, but only if renewable energy sources are used across the value chain, from well to production gate, with additionality and time-matching principles.
8. Other than electrolysis, what production processes would meet this emissions intensity threshold now or before 2030?
 - a n/a
9. Please provide feedback on the proposed minimum capacity requirement (equivalent to 10 MW electrolyser)?

- a Could give rise to significant supply chain risk and Sovereign risk: Similar to the solar industry issues in Europe where the entire industry is being undermined by cheap imports.
 - b Focus on a minimum 10MW equivalent electrolyser hydrogen production will limit attracting and enabling investment across all commercial levels, specifically small to mid-size commercial projects. The lower the minimum capacity, the increase in the number of smaller projects attracting both domestic and global investment interest, strengthening the overall Australian hydrogen landscape.
- 10. For renewable production processes other than electrolysis, is using the minimum capacity requirement of “equivalent to a 10MW electrolyser” appropriate? Is another definition of capacity required to deal with other production pathways?
 - a n/a
- 11. Should grid connected electrolyser projects be required to match their hydrogen production with electricity generated by the same electricity grid? Please provide feedback on this proposal.
 - a Yes, matching hydrogen production with electricity generated by the same electricity grid should be required - demand profile should not be at the cost of other grid users.
- 12. Please provide feedback on the proposal to not include additional requirements on renewable energy generation for access to the incentive, such as additionality and hourly time-matching with hydrogen production.
 - a Recommended that additionality and daily/weekly time-matching requirements should be included in order to appropriately position Australia competitively in relation to its international peers.
 - b Similarly, to avoid “Not actually green” perceptions or actualities.

Administrative arrangements

It is proposed that the HPTI be co-administered by the ATO and DCCEEW, leveraging relevant accreditation regimes such as the Guarantee of Origin Scheme operated by the Clean Energy Regulator.

The administrative arrangements applying to the HPTI will be designed so as to achieve streamlined administration and provide the community with confidence that funds are supporting projects that meet the HPTI eligibility requirements.

Verification of hydrogen production volumes, associated emissions intensity, production pathway and energy source will occur through the proposed Guarantee of Origin (GO) scheme. Producers will be required to register their facility with the Clean Energy Regulator using a production profile. This profile will capture information relating to the facility including general information (including the site capacity) and information to calculate the emissions intensity of hydrogen from the facility.

Once a facility is registered under the GO scheme, producers will need to create GO Certificates for each kilogram of hydrogen produced in order to receive the credit. Producers will be able to claim credits based on the information in the certificate and the ATO will be able to validate claims against the registry of certificates.

Producers will need to retain records under the existing taxation record keeping requirements. The GO scheme will also include a public registry that stores information about registered facilities and every GO certificate. Further information can be found in the Guarantee of Origin scheme design consultation document.¹

Appropriate assurance arrangements will also be established to support adherence with broader eligibility requirements, including those that support the delivery of the Future Made in Australia Community Benefit Principles.

Questions

- 13. Please provide any feedback on the proposed administrative approach.
 - a Acceptance of the proposed administrative approach.
- 14. The proposed GO scheme will be used to support the registration and verification of hydrogen production. Are there any additional factors that would need to be accounted for in the proposed design of that scheme?
 - a It is recommended that the GO scheme have separate registered participant accounts:

- i Production profiles (to align with the HPTI scheme)
- ii Post-production profile (transport and storage)
- iii Consumption profiles (for consumption of renewable hydrogen)

15. The Government may legislate the administrative arrangements in subordinate legislation. Please provide any feedback on this proposed approach.

- a Legislated administrative framework in subordinate legislation accepted, but detailed administrative mechanisms/pathways need to be clearly stipulated as part of the legislation, or included in appendixes.

Community Benefit Principles

The Future Made in Australia package will harness Australia's potential and ensure the benefits of growth in priority industries are widely shared. To guide this, the Future Made in Australia legislation will include

Community Benefit Principles which will focus on:

- investment in local communities (including First Nations communities)
- domestic industry and supply chains
- skills
- promotion of diverse workforces,
- secure jobs and tax transparency.

The HPTI will include eligibility criteria that align with the Community Benefit Principles.

For example, transparency and disclosure reporting requirements will be established as part of accessing the taxpayer support. These could take the form of annual ATO reporting on the recipients of the HPTI and amount of credit each has received. and requirements for recipients to demonstrate compliance with their tax obligations, including being up to date with relevant registration requirements, satisfactory lodgement of tax returns and payment of tax liabilities not under dispute. These could be modelled on the existing statement of tax record requirements for large entities tendering for Government contracts, or alternative models could be identified.

Questions

16. What obligations should be imposed on potential recipients of the HPTI to ensure the community benefit principles are met?

- a Local manufacturing; local supply chains; incentivised to use local suppliers

17. What obligations are potential recipients of the HPTI currently subject to that might support the community benefit objectives (noting these will be finalised under the *Future Made in Australia Act*)?

- a n/a

18. Are there any additional objectives that you consider important? What obligations might support these?

- a Strong domestic supply and protection against foreign supply

19. Recipients of the HPTI may be subject to additional transparency and disclosure requirements in order to be eligible. What kind of requirements are appropriate? What are the key practical considerations to take into account when setting the requirements?

- a Sustainability policies
- b Non-slave, no child labour policies
- c Anti-corruption policies
- d Anti-bribery and anti-corruption policies

20. How should entities proposing to claim the HPTI be required to demonstrate compliance with tax obligations?

- a Recommended to follow the RDTi model as an example

21. What information do you consider important for the community that should be reported publicly on the recipients of the HPTI such as the amount of credit received?
- a Recommended that the amount of credit received be published publicly.
22. Who should the reporting requirements be imposed on? For example, on the recipient entity, or central reporting through a regulator?
- a Timely publishing by the ATO and /or DCCEE

Interaction with other government incentives

Recipients can claim other forms of support and participate in other programs alongside the HPTI. The Government is not seeking to limit the support of the HPTI where other Commonwealth, State or foreign government support is provided.

The HPTI was announced alongside an extension to the Hydrogen Headstart program. Renewable hydrogen projects may be eligible for both the HPTI and support through Hydrogen Headstart if successful through the latter program's competitive application process. Hydrogen Headstart is designed to target a project's specific commercial gap. Payments under the Hydrogen Headstart program will proportionally reduce if a project is receiving the HPTI. This means the total amount received from Hydrogen Headstart and the HPTI will remain consistent with the initial agreement under Hydrogen Headstart.

Questions

23. Please provide feedback on the proposed treatment of the interactions between the HPTI and other forms of Commonwealth, State or foreign government support.
- a Agree that it is crucial for recipients to be allowed to claim other forms of support and participate in other programs alongside the HPTI, including other Commonwealth, State, foreign government or foreign investor support.
24. How can the HPTI best leverage other types of support? Please provide examples relevant to your project if possible.
- a n/a
25. What are the key practical considerations with receiving support through the HPTI and the Hydrogen Headstart program simultaneously?
- a To avoid duplicated efforts in compliance reporting by participants
26. Are there specific interactions with other support programs that should be considered?
- a Reduce administrative duplication inefficiencies: As much as possible, increase commonality of compliance, audit and reporting documents and requirements across all programs.
- b Preferably, a centralised reporting portal