AUSTRALIAN WORKERS' UNION

Senate Standing Committee on Economics Inquiry: *Future Made in Australia (Production Tax Credits and Other Measures) Bill 2024*

Submission of The Australian Workers' Union

January 2025

Overview

The Australian Workers' Union (AWU) is one of Australia's largest and most diverse unions. We represent over 76,000 workers across the length and breadth of the country. This includes thousands of workers in critical minerals supply chains: from mining to processing and refining, as well as downstream in manufacturing. It also includes thousands more in hydrogen-related jobs. AWU members work the construction sites where hydrogen infrastructure, and the renewable energy that powers it, is built. We are found across the industry sector – from today's major hydrogen offtakers in ammonia processing and oil refining, to future users in facilities requiring high process heat. Our union also represents workers in gas storage and water infrastructure management. This membership affords us a deep interest in the future of both critical minerals and hydrogen, and thus the proposed Hydrogen Production Tax Incentive (HPTI) and Critical Minerals Production Tax Incentive (CMPTI).

We firmly believe that despite the valuable contribution of critical minerals to the economy, Australia is not close to realising its potential in this space. Domestic processing, refining and more advanced manufacturing using critical minerals are especially underdeveloped.

Our country holds unsurpassed reserves of many such minerals and important comparative advantages to exploit them at home, including large and experienced industrial and mining workforces and enviable renewable energy and gas resources. Yet despite our favourable position, Australia's critical minerals sector skews heavily towards 'dig and ship' - low value-added exporting of unprocessed ores. While such activity does drive revenue and employment, it also comes with an opportunity cost: a downsteam job that wasn't created, a local supply opportunity not provided, an energy sector not expanded and an innovation ecosystem not supported. 'Dig and ship' also increases Australia's vulnerability to shocks in the resources sector. As recent experience with COVID-related disruptions and the rapid rise of the Sino-Indonesian nickel industry indicate, the impact of such events will often be difficult or impossible to avoid.

Making better use of Australia's critical minerals will deliver a larger, more resilient industry sector and a bounty of quality jobs. The current critical minerals project pipeline alone could deliver around 21,000 ongoing jobs in the coming years if successfully developed.[1] This would further support thousands of indirect roles in construction, energy, chemical supply and transportation.

We also regard better domestic use of our critical minerals resources as a strategic imperative. The Commonwealth's *List of Critical Technologies in the National Interest* includes a multitude of products reliant on critical minerals, including key energy technologies such as solar panels, wind turbines and batteries.[2] Facilitating local production of those technologies is the subject of considerable government attention.[3] Critical minerals are also important in defence manufacturing. Realising both the submarine and 'advanced capability' pillars of the AUKUS pact will require vast quantities of many such minerals.[4] However, the global critical minerals supply chain is heavily concentrated in China.[5] This poses a clear risk, particularly given China's tendency to exploit such arrangements in the service of geostrategic goals. AWU members in agriculture have been impacted by such tactics in the recent past. China has also used critical minerals to similar ends in disputes with the US and Japan.[6] Australia's trade and security partners are looking to our country to diversify and de-risk supply away from China, as the abundance of recent bilateral and plurilateral agreements and statements reflects.[7]

The AWU similarly recognises Australia's potential to emerge as a leader in large-scale, low-cost production of green hydrogen. Our nation also possesses significant comparative advantages in this industry - including world class renewable energy resources, abundant land and our construction and industry workforces. Moreover, large-scale green hydrogen production will facilitate much of the wider FMIA agenda. We welcome acknowledgement in the Bill's explanatory memorandum that "*renewable hydrogen opens the door to green metals…and other applications critical to industrial decarbonisation*."[8] Existing hydrogen users in industry will shift from grey to green hydrogen as production scales up and it becomes cost effective to do so. Many other facilities requiring low emissions process heat will ultimately do the same. Most prominent for workers, the economy and climate alike is green metals production, where Australia's potential is truly world leading.[9]

Direct export and utilisation in the transport sector are also part of hydrogen's vast potential for Australia. However, given its strong significance to industry, hydrogen's larger role should be as an input to local manufacturing.

Achieving a hydrogen industry of the scale necessary to support this vision won't just drive higher growth and lower emissions – it will support tens of thousands of jobs. The AWU estimates that Australia's current pipeline of proposed hydrogen projects, realised in full, would create around 20,000 operational jobs and over 160,000 roles in the construction phase[10] - together with many thousands more indirect roles. The Commonwealth's own estimate of 33,000 direct and indirect hydrogen jobs by 2040[11] is modest by comparison, but nonetheless reflects the element's strong potential for the nation.

Critical minerals and hydrogen can help fuel a new generation of industrial employment, development and decarbonisation. But while we are uniquely well placed, this is not a future that the market will deliver alone. Certainly not in an optimal manner, from either an economic or a climate perspective. Capital will flow to where the totality of conditions, including in relation to public policy, are most advantageous.[12] Industry policy in pursuit of energy and strategic goals is eroding Australia's advantage in both critical minerals and hydrogen.[13] Green hydrogen also faces a 'chicken and egg' problem. Despite widespread recognition of its potential and importance, producers are reluctant to invest in a product lacking mature offtake markets. Buyers, in turn, will not adopt green hydrogen until reliable production emerges and a significant price premium over incumbent fuels is addressed.[14]

These barriers to investment must be overcome by multifaceted support; Government should play an active role in turning abstract possibility into active production. Equally plain is the need to move quickly. The AWU thus welcomes the focus afforded to both critical minerals and green hydrogen through FMIA. We have strongly supported the proposed HPTI and CMPTI as key to expediting investment and seeing these important industries reach scale.

The HPTI and CMPTI models outlined in the *Future Made in Australia (Production Tax Credits and Other Measures) Bill* (the Bill) evince a reasonable likeness to the design features that the AWU advocated in last year's Treasury consultations. Notably, that the proposed instruments will be available on costs directly associated with production will assist to maximise impact. That credits will be refundable is important to ensuring the scheme can be accessed by all prospective

claimants, including those with little tax liability. This is likely to include hydrogen project developers that are not initially profitable due to the nascency of the green hydrogen market. The decision to make the incentives uncapped and available over a clearly defined and extended period will also assist in providing investors the confidence to move forward. Short durations and 'on again, off again' delivery have deterred investors targeted by similar initiatives internationally.[15] The proposed ten-year duration for fully eligible projects also reflects the approach taken by the US and Canadian Governments with green production incentives – assisting Australia to meet policy competition from abroad.[16]

We suggest that some room for improvement in design of the production incentives remains. Greater harmony with the community benefit principles prescribed in the *Future Made in Australia Act 2024* is necessary for reasons of both community and industry returns, as well as social licence for projects receiving support. In particular, the CMPTI should be tweaked to drive investment in downstream activities. These and other recommendations to maximise the efficacy of the incentives are outlined below.

But regardless of whether the Bill is optimised in the manner we advocate, the AWU calls for its enactment during the upcoming February sitting period. The HPTI and CMPTI are headline measures of FMIA: a bold but considered play to revitalise Australian manufacturing and reposition it for the 21st century. They can go down as some of the best investments in our workers, industry, and resources ever made. As the Treasurer has said, "*it would be an egregious breach of our generational responsibilities as a government if we didn't play this winning hand.*" [17] Indeed, FMIA without the incentives delivered through this Bill is, by any reasonable view, much diminished.

Efficacy here also demands timeliness. In the global renewables and clean manufacturing race, these incentives will deliver better financials, more certainty and confidence for investors to take action on our shores rather than somewhere else. Facilitating a positive outlook is particularly important at a time when the Coalition and its allies are dedicated to eroding it - and appear to be assuming mass contraction of industry at our moment of greatest opportunity. And where the electoral cycle provides that any other action in this space is not likely to be feasible until later in the year.

Generational opportunity won't wait on Parliamentary dealmaking or political expediency. The time to deliver the HPTI and CMPTI, and all the jobs and other benefits that come with them, is now. The AWU looks forward to welcoming enactment of the *Future Made in Australia (Production Tax Credits and Other Measures) Bill* in the coming weeks.

Community benefit principles

The AWU applauds the goal of promoting safe, secure, well-paid jobs, stronger domestic capability, more skilled and inclusive workforces, and other outcomes prescribed in the *Future Made in Australia* Act's community benefit principles. While FMIA is driven by global climate and strategic forces, working people in regional and suburban communities can and should be its greatest beneficiaries. We strongly support the Prime Minister's position that "*a future made in Australia is about the jobs, wages, conditions and living standards of the people who send us here*."[18] The AWU

advocates firm and enforceable community benefit principles, applied to all FMIA projects, as vital to ensuring such benefits are ultimately realised.

That the Bill provides for the application of community benefit principles to the HPTI and CMPTI is welcome.[19] However, requirements that the Treasurer, as responsible Minister, 'has regard' to the overarching community benefit principles when setting 'community benefit rules' for the HPTI and CMPTI specifically[20] should be strengthened. This would appear to provide for community benefit rules that are only broadly consistent, partly consistent, or even inconsistent with the community benefit principles. As it stands, it is only necessary for the Treasurer to show that they have had regard to the principles in setting the actual rules that apply to the HPTI and CMPTI in relation to community benefits.

Rather than requiring mere regard, the Bill should state explicitly that the community benefit rules for both production incentives must be consistent with the community benefit principles. This will ensure that the government's intent that FMIA supports community benefits – now enshrined in law[21] - is achieved in delivery of the HPTI and CMPTI.

Recommendation 1: The Bill should require that the community benefit rules developed for the HPTI and CMPTI are consistent with the community benefit principles in the *Future Made in Australia Act 2024*.

We note further that the Bill allows for the community benefit rules to specify circumstances that would reduce a company's entitlement to the HPTI or CMPTI by a specified portion.[22] This appears to provide for a system of 'stackable' credits to give effect to the community benefit principles. For instance, a recipient's entitlement might vary according to the proportion of output provided to domestic offtakers (a particular focus for the AWU - see below), adherence to local procurement targets, or operations within a geographic area specified by the Net Zero Economy Authority. The AWU supports such a system for the HPTI and CMPTI. We urge the Parliament to pass a Bill that allows for its establishment.

However, we suggest that the Bill should allow the Treasurer to implement a stackable credits system that provides for additional support to companies that do more to advance the community benefit principles, as well as reduced support for those that do not. The Bill should allow for rules that support provision of a larger entitlement than the maximum prescribed at present, as well as a lesser entitlement, according to adherence with the community benefit rules.

Recommendation 2: The Bill should allow for implementation of a stackable credits system to support implementation of the community benefit rules for the HPTI and CMPTI. This should allow recipients to earn both a greater and a lesser entitlement than that currently provided for in the Bill, according to greater or lesser adherence to the community benefit rules.

Offtake

The AWU notes that eligibility for the CMPTI will not depend on end use of mineral outputs, including whether minerals are utilised domestically or exported. Disregard for downstream usage would represent a failure to fully support realisation of FMIA's objectives, and to safeguard social licence for the initiative.

The CMPTI's core objective of maximising onshore value-adding should of course focus on increased processing and refining. But the incentive should also seek to facilitate more advanced manufacturing activities that use critical minerals as inputs. This could help drive the creation of near-complete value chains within Australia – delivering greater jobs, returns and capability than a shift from extraction to processing and refining alone. The CMPTI should offer a larger incentive, beyond that provided for by the Bill in its current form, to recipients that prioritise offtake by domestic operations. Ideally, this would form one part of the stackable credits system advocated above. The additional incentive offered could reflect the proportion of a site's total output supplied to downstream operators within Australia.

This adjustment to maximise local jobs and development outcomes would assist in building social licence for the CMPTI. This should be a top-level consideration. While the incentive will require a very large outlay from government, public sentiment that the resources sector delivers too little in returns to workers and the community is common.[23] The best means of securing community buy-in is through community returns - in the form of local employment and development outcomes. People should be given confidence that an FMIA project in their area will always mean jobs and opportunity for them.

A focus on building out domestic value chains is not inconsistent with the strategic objective of ensuring access to critical minerals for Australia's trade partners. An enhanced capacity to provide the final minerals or products that other states require would only enhance Australia's capacity to act as an alternate to present supply options.

Recommendation 3: The Bill should allow for an increased incentive, relative to that currently provided for, for CMPTI recipients that priorities domestic offtake. This should form part of a larger stackable credits system.

Transparency requirements

Transparency around use and benefits from the HPTI and CMPTI will further assist in ensuring social licence and taxpayer value for these incentives. Timely and accessible publication of such information will also assist unions, industry and other stakeholders to monitor the implementation and efficacy of both measures. To this end, the AWU welcomes provisions in the Bill that require the Commissioner to publish information regarding the identity of recipients of the HPTI and CMPTI and the amount of their entitlement.[24]

There would be further utility in the publication of data concerning the workforce employed at sites receiving the HPTI and CMPTI. This could include the number of workers directly employed, the proportion of permanent employers, and the number of labour hire workers engaged on sites attracting the incentives. Such data would speak directly to community benefit principle one – supporting the creation of jobs that are secure with good conditions (as well as safe).[25] The Bill should require the Commissioner to obtain and publish workforce data, in addition to data concerning the quantum of incentive provided to each recipient.

Recommendation 4: The Bill should require the Commissioner to obtain and publish data concerning the workforce employed at sites receiving the HPTI and CMPTI on an annual basis.

Grid matching

In its paper supporting 2024 consultations on the HPTI, the Commonwealth floated 'deliverability' rules that would require grid-connected hydrogen production projects to match output with electricity from that same grid, but without granular time matching and additionality requirements.[26] In our view, this would represent a reasonable compromise. While most new green hydrogen projects intend to utilise off-grid electricity, a more stringent combination of deliverability, additionality and time matching requirements would go further towards ensuring that those which are grid-connected do not have adverse consequences for other major electricity users. However, it would also require trade-offs: Tougher grid matching may complicate development of the hydrogen production industry, and risks undermining the HPTI's focus on driving investment and development in the near term. Hydrogen production subsidies provided by the US and European Union propose to implement more rigorous additionality and time matching requirements in coming years.[27] Australia should be guided by this approach – formulating more comprehensive regulation in this space when the hydrogen industry reaches greater maturity.

The Bill defers on the grid matching question - empowering the Treasurer to determine the relevant rules at a later date via legislative instrument.[28] Such rules ought to be developed and implemented as soon as possible. Once the HPTI is legislated, failure to resolve this question risks provoking uncertainty around what might otherwise shape as investable projects. Government should promptly deliver rules covering off on this issue in the manner proposed in its 2024 consultation paper.

Recommendation 5: The Commonwealth should promptly deliver rules concerning grid matching applicable to projects receiving the HPTI in the manner proposed in its 2024 consultation paper on the incentive.

Review

The Bill presents an obvious means of facilitating a review of the HPTI and CMPTI after they have been in place for a reasonable period. Both incentives are novel measures in the Australian context, and some level of optimisation is likely to be warranted. Should the Parliament resolve to pass the Bill without the amendments called for above, they could also be considered in the course of such

a review. We suggest a statutory review around 2029, after registration and issuance of the incentives has occurred for some time, would be most appropriate.

Recommendation 6: The Bill should provide for a review of the HPTI and CMPTI around 2029.

Looking ahead

The Australian Workers' Union is committed to supporting development of green hydrogen production and critical minerals processing and refining that meets Australia's unique potential, and that maximises benefits to workers and the community. Without question, the HPTI and CMPTI are cornerstones of these endeavours. We call on Parliament to expedite their implementation by passing the Bill as soon as possible.

But looking ahead, even successful production incentives are likely to represent no more than an important early step in achieving the FMIA vision. Additional regulatory and policy support will be required.

Notably, beyond hydrogen and critical minerals, Australia possesses world class potential in much green metals production – with green iron most promising of all. A successful transition to green metalmaking is most important for the tens of thousands of workers in existing metals production sites and supply chains. Indeed, the AWU believes green metals can be the crowning achievement of FMIA - or the greatest opportunity missed. Various technical and economic barriers, together with industry policy competition from abroad, prevent a swift and optimum transition absent government support. The AWU continues to call for an ambitious and wide-ranging green metals support package to overcome barriers and facilitate a shift to green metals production. The need for some form of production incentives for green metals must be a core component of this package.

The shift towards green hydrogen as a key input to Australian manufacturing, including but not only in green metals, provides further pause for thought. Many promising green industries will ultimately require vast quantities of hydrogen. The AWU therefore applauds the government's focus on the molecule's role in transforming domestic industry in its recently-updated hydrogen strategy.[29] But neither the HPTI nor other hydrogen regulations and initiatives address end-use – including whether production is exported or utilised domestically. Current settings leave open the risk that Australian-made hydrogen will not be guaranteed to domestic industry at the requisite volume and price. Any such outcome would represent a clear failing, both in its own right and against FMIA's objectives. Australia must never repeat its mistakes with the LNG export industry. To be clear, a need for regulation that ensures reliable access to low-cost green hydrogen has not arrived. But it is foreseeable, and government must actively monitor this risk in the medium to long-term.

More information

We welcome the opportunity to contribute further to the Inquiry's work, and to respond to any queries regarding this submission. Please contact Thomas Mortimer, National Policy Director, at [redacted] and [redacted]

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