

Chapter 2

Views on the bill

2.1 This chapter summarises stakeholder views on the bill. General comments on the bill are considered initially before concerns regarding specific aspects of the bill are then explored.

General comments on the bill

2.2 A number of submissions supported the intent of strengthening the Petroleum Resource Rent Tax (PRRT) regime. For example, the Australian Petroleum Production and Exploration Association (APPEA) recommended that:

The Committee supports the immediate passage of the legislation, including the removal of PRRT from onshore operations, with the new provisions to apply from 2019.¹

2.3 INPEX, a member of APPEA, supported the industry's position on the PRRT reforms and 'supports a taxation regime in Australia that enables investment in the development of LNG projects in Australia, while providing a fair share of tax to be returned to the Australian community'.²

2.4 The Synod of Victoria and Tasmania, Uniting Church in Australia (the Synod), also supported the passage of this legislation:

We are concerned that if this bill is not passed by the Parliament, then no reform to the PRRT will occur [and] the current flawed arrangement will persist for the foreseeable future while the gas reserves are depleted.³

2.5 Notwithstanding the support for the bill, all submissions advocated for amendments in one form or another.

Uplift rates

2.6 Some submissions discussed the changes to uplift rates. For example, APPEA argued that changes to uplift rates for exploration would be counterproductive:

The proposed reduction in the augmentation (carry-forward) rate for exploration expenditure from LTBR plus 15 percentage points to LBTR plus five points will in some instances lead to an increase in the after tax cost of undertaking exploration...

While it is understood that other aspects of the exploration provisions have been retained (such as the transferability of offshore expenditures to other projects held by a taxpayer), the future reduction in the value of

1 Australian Petroleum Production and Exploration Association, *Submission 2*, p. 1.

2 INPEX, *Submission 3*, p. 1.

3 Synod of Victoria and Tasmania, Uniting Church in Australia, *Submission 1*, p. 1.

exploration deductions for PRRT purposes is arguably not consistent with the desire to increase exploration in Australia.⁴

2.7 By contrast, the Synod supported lowering of uplift rates in general, but:

...believes they are still too generous at the cost of returns to the Australian community for things like aged care funding, funding for schools, funding for the health system, funding to address family violence and funding for disability schools. Further, the Synod is disappointed the reduction in uplift rates only applies to future projects and does nothing to address the massive accumulated credits that apply to many of the existing projects.⁵

2.8 The Synod went on to argue that the uplift rates:

...be set at the long term bond rate (LTBR) for those activities to which any uplift rate is applied to at all. The Synod is concerned that the different rates of uplift would provide incentives to 'game the system' and seek to try and have expenditure classified into activities with the higher uplift rates.⁶

2.9 That said, the Synod supported the changes to drop uplift rates to lower levels after ten years.⁷

Transferability of onshore exploration costs

2.10 Some submitters raised concerns about the removal of onshore exploration costs transferability.

2.11 APPEA noted that:

The cost of this change will fall most heavily on companies that have been exploring onshore for natural gas, particularly to support the east coast gas market.⁸

2.12 APPEA went on to argue that:

...the decision to effectively 'dissolve' undeducted onshore exploration expenditures incurred by companies in the period 2012 to 2019 represents the removal of an entitlement to legitimate deductions incurred by taxpayers during this period. APPEA considers this represents poor tax policy and is inconsistent with the tax treatment of offshore exploration expenditure over the same period that will appropriately remain transferrable to PRRT paying projects held by a taxpayer.⁹

2.13 Santos noted that:

4 Australian Petroleum Production and Exploration Association, *Submission 2*, pp. 7–8.

5 Synod of Victoria and Tasmania, Uniting Church in Australia, *Submission 1*, p. 2.

6 Synod of Victoria and Tasmania, Uniting Church in Australia, *Submission 1*, p. 2.

7 Synod of Victoria and Tasmania, Uniting Church in Australia, *Submission 1*, p. 2.

8 Australian Petroleum Production and Exploration Association, *Submission 2*, p. 8.

9 Australian Petroleum Production and Exploration Association, *Submission 2*, p. 8.

The retrospective expiry of these deductions would also be inconsistent with the treatment of other proposed changes to the PRRT, for example augmentation, which has been grandfathered to ensure the changes are prospective and therefore sound from a taxation policy, equity and fiscal stability perspective.¹⁰

2.14 The South Australian Department of Energy and Mines also noted the impact of the retrospective changes and highlighted the likely significant write-offs for companies with undeducted onshore exploration expenditure.¹¹

2.15 The Australian Shareholders' Association (ASA) outlined that country risk is lower in jurisdictions with clear policies and where any changes are staged or well-flagged. The ASA argued that this is not the case here; with the bill applying retrospectively and providing differential treatment between companies that have already made investment decisions based on the existing PRRT rules and committed exploration expenditure accordingly.¹²

2.16 APPEA and Santos argued for a transition period to be introduced to allow companies with undeducted onshore exploration expenditure to transfer these credits.¹³ For example, Santos considered that:

...the principle of prospectivity should be applied consistently, including in the case of existing onshore transferable deductions.¹⁴

2.17 That said, the Synod supported the changes to transferability of onshore expenditures.¹⁵

Committee view

2.18 The committee welcomes the broad support for the bill from stakeholders and notes the specific concerns raised by submitters to the inquiry. The very small number of submissions received indicates strong support for the bill.

2.19 The changes outlined in the bill will lower the overly generous uplift rates that apply to certain categories of carried-forward expenditure. The committee considers that these changes are appropriate to limit the excessive compounding of deductions and provide some assurance that projects may still pay PRRT if the timing of cash flows is different to investment forecasts.

2.20 The committee notes that generous transitional arrangements were provided when onshore projects entered the PRRT regime, such as a 'starting base', and the deductibility of resource tax expenditures (for example, state/territory royalties). These arrangements not only ensured onshore projects are expected to pay no PRRT

10 Santos, *Submission 5*, p. 2.

11 Department of Energy and Mines (SA), *Submission 4*, [p. 3].

12 Australian Shareholders' Association, *Submission 7*, [p. 1].

13 See also the Australian Shareholders' Association, *Submission 7*, [p. 1].

14 Santos, *Submission 5*, p. 2.

15 Synod of Victoria and Tasmania, Uniting Church in Australia, *Submission 1*, p. 2.

under any realistic scenario, they gave rise to an unintended consequence in which companies were able to reduce the PRRT liability of offshore projects via the accumulation and transferability of unutilised deductions for onshore exploration expenditure.

2.21 The committee considers that the removal of onshore petroleum projects will address the integrity risk to the PRRT from the inclusion of projects that are unlikely ever to pay PRRT. That said, the committee recognises that the proposed changes have been considered as retrospective by some stakeholders in that alternative exploration decisions might have been made between 1 July 2012 and today if the proposals in this bill were known at the time these exploration decisions were made. Nevertheless, the committee also recognises the Government's desire for simplicity in addressing the removal of onshore projects from the PRRT.

Recommendation 1

2.22 The committee recommends that the bill be passed.

Senator Jane Hume

Chair