

TREASURY | *TREASURY LAWS AMENDMENT BILL 2025* *PRRT CALLAGHAN REVIEW RECOMMENDATION 6*

Australian Energy Producers | 3 October 2025

Australian Energy Producers (AEP) welcomes the opportunity to provide comments on Treasury Laws Amendment Bill 2025 PRRT Callaghan review recommendation 6. This bill is intended to address an unintended adverse consequence of PRRT design, whereby a production licence reverting to a retention lease, and then going back to a production license, results in companies not being able to claim previously assessed income, deductible expenditure or tax paid.

Purpose, scope and application of the bill

The explanatory memorandum (paragraph 1.7) states that the bill implements recommendation 6 of the Callaghan Review:

The PRRT design feature which links a project to a production licence does not align with current commercial practice whereby a production licence may revert to a retention lease. The Commissioner should be given the power to treat a later project as a continuation of an earlier project, where it would be reasonable to do so.

The explanatory memorandum (paragraph 1.9) further states that:

The Commissioner may only make this determination if a qualifying application is made, and the Commissioner is satisfied that the later project is a continuation of the earlier project.

AEP recommends that the bill and explanatory material further clarify the purpose, scope and application of the Commissioner's power to make a continuation determination, by affirming that other existing processes and rights relating to petroleum titles, licensing and approvals are not affected or limited by this amendment.

Timeframe for qualifying applications

The explanatory memorandum (paragraph 1.18) states that:

A qualifying application may be made by one person or jointly by multiple persons. The application must be made within 90 days from when the most recent production licence in relation to the later project came into force, or a longer period allowed by the Commissioner. The applicant or applicants jointly must have been entitled to receive at least half of the receipts from the sale of petroleum or petroleum commodities recovered from the production licence area in relation to the later project. The applicant or applicants jointly must meet this entitlement threshold immediately before the application was made. **[Schedule #, item 3, section 49B]**

AEP considers that the criteria for a qualifying application should be clarified to provide certainty for affected continuing projects whose production license came into force well before the proposed 90-day limit for applications.

Section 49B should allow applications to be made within a time limit (e.g., 90 days) from enactment of this bill for existing PRRT projects with production licences pre-dating the bill. This would ensure that these PRRT projects would be able to apply immediately, and remove the unnecessary administrative step of requiring these projects first to apply to the Commissioner of Taxation for additional time.

Criteria to determine a continuing project

Further, AEP considers that the stipulation of what constitutes a continuing project is too prescriptive and does not allow for the range of commercial concept options that may pertain to a project at different stages of development. Section 49C(1)(b) and (c) states that in considering whether the later project is a continuation of the earlier project, the Commissioner must have regard to:

- (b) any differences between the marketable petroleum commodities produced or reasonably expected to be produced from petroleum recovered from those areas;
- (c) the degree of similarity between:
 - (i) the operations, facilities and other things that have comprised the earlier project; and
 - (ii) the operations, facilities and other things that comprise, have comprised or will comprise the later project ...

These clauses do not sufficiently account for the fact that a project proponent might entertain a number of different concepts before committing to a particular product or type of facility (e.g., onshore refinery, floating LNG plant or expansion of existing facility). The degree of conceptual similarity or difference between an earlier and later phase of a project will be driven by commercial decisions relating to customer demand, the characteristics of the hydrocarbon field, input costs, technological developments and regulatory considerations. Requiring a certain degree of continuous similarity risks excluding projects that the amendment is intended to address.

Accordingly, AEP recommends removing section 49C(1)(b) and (c). The remaining requirements (a) and (d) will ensure that an eligible continuation should be limited to cases where the retention lease covers the same area (graticular blocks) as the previous production licence and that there is continuity of title from the earlier to the later project.

These requirements remove unnecessary subjectivity and are sufficient to ensure the Commissioner is able to prevent any unintended wider application of the provision.

Degree of discretion granted to Commissioner of Taxation

AEP notes that section 49C(e) of the exposure draft bill stipulates that ‘in considering whether the later project is a continuation of the earlier project, the Commissioner must have regard to ... any other matters the Commissioner considers relevant.’ AEP considers that it is not appropriate to grant the Commissioner of Taxation such broad and undefined discretion to determine whether a current project is a continuation of a previous one.

AEP also recommends that the explanatory memorandum present several examples of continuing project scenarios to clarify the law and enhance certainty for taxpayers.

Other outstanding Callaghan Review recommendations

AEP encourages the Australian Government to progress the other outstanding recommendations of the Callaghan Review, which are important to modernising the operation of the PRRT and providing certainty to industry. AEP will continue to work constructively with Treasury to expedite the implementation of all the outstanding Callaghan Review recommendations.

If you require further information or would like to discuss the comments above, please do not hesitate to contact Dr Matt Steen, Principal Advisor – Economic Policy at msteen@energyproducers.au.