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Saying ‘no’ to Santos: Submission on proposed changes to the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2023*

Offshore gas must not bypass genuine consultation with traditional owners or the wider community. The timing, pace, and scope of* OPGGS *reform is highly suspect, and avoids engagement with crucial questions: is the impact of offshore gas on the climate and environment acceptable? Should legislation be facilitating CCUS, considering its poor track record? Adequate consultation will always challenge the crumbling social license of fossil fuel operations – perhaps that is why there are proposals to “clarify and improve” consultation and approvals?

Dr Matthew Ryan
Mark Ogge
February 2024

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Summary

The Department of Industry, Science and Resources is running a consultation process, seeking input to "clarify and improve" the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2023*.

The only reason it would be necessary to "clarify and improve" the process for offshore oil and gas approvals is to facilitate *more oil and gas approvals.* Santos has acknowledged this, saying that reforms to assessment processes are needed to enable the final investment decision for the slated Dorado project – an oil and gas development north of Port Hedland, WA, expected to result in 168.5 million tonnes of greenhouse gas emissions (approximately 32% of Australia's annual emissions in 2023, excluding LULUCF).[1]

The context for Santos, and other petroleum proponents, demanding reforms to consultation regulations for offshore petroleum developments is clearly delays to projects due to recent Federal Court cases, especially those regarding consultation on Woodside's Scarborough and Santos's Barossa projects.[2] Court delays cost these companies money, and they would no doubt prefer not to have to deal with this kind of scrutiny. That the Government would consider weakening consultation requirements after their persecution of the "yes" campaign to enshrine an Indigenous "Voice" to Parliament in the Constitution, and after widespread community outrage after the Juukan Gorge scandal, is surprising.

While the Government apparently does not like to say "no" to Santos, or other offshore gas proponents, it will need to learn how to do so if it is to listen to Aboriginal and Torres Strait Traditional Owners, or to climate scientists.

This submission presents an appraisal of the current process for offshore petroleum evaluation, outlines limitations of that process, and asks questions of the integrity and

[1] McKenzie (2024) 'Santos boss Kevin Gallagher says he needs clarity on approvals before moving on WA's Dorado oil project', *The West Australian*, https://thewest.com.au/business/oil-gas/santos-boss-kevin-gallagher-says-he-needs-clarity-on-approvals-before-moving-on-was-dorado-oil-project-c-13665606; Santos (2022) *Dorado Development Offshore Project Proposal*, https://docs.nopsema.gov.au/A901590

[2] Packham (2022) 'Santos pauses drilling in Barossa ahead of court ruling', *Australian Financial Review*, https://www.afr.com/companies/energy/santos-pauses-drilling-in-barossa-ahead-of-court-ruling-20220826-p5bd5a; Wootton (2022) 'Tiwi Islanders win landmark case blocking $5.4b Santos gas field', *Australian Financial Review*, https://www.afr.com/companies/energy/tiwi-islanders-win-landmark-case-blocking-5-6b-santos-gas-field-20220921-p5bjsq

appropriateness of this current round of consultation. The recommendations of our submission are as follows:

1. **That the scope of who may be considered a relevant person under the Act must not be narrowed.**
2. **That project proponents must carry the responsibility to conduct adequate consultation.**
3. **That NOPSEMA be given a strengthened power of refusal for projects, when projects fail to satisfy environmental, climate, economic, social and cultural criteria.**
4. **That projects must be considered in their entirety, rather than allowing the fragmentation of approvals for different elements of projects (drilling, pipeline construction, construction, decommissioning, etc.)**
5. **That the principle of free, prior and informed consent be enshrined in the consultation process when consulting with any Aboriginal or Torres Strait Islander person who has cultural and/or spiritual connections to Country. These identified people must have veto power over all projects.**
6. **That environmental approvals under the OPGGS must include a "climate trigger", to ensure the climate impacts of all project emissions (including scope 3) are considered in relation to the latest climate science and available carbon budgets for Paris Agreement targets.**
7. **That NOPSEMA evaluation must include consideration of impact on host communities, regional and national economic impacts, and the impact on Australia's domestic energy market.**
8. **That future OPGGS approvals by NOPSEMA be suspended, pending a review into the compatibility of further offshore gas expansion in Australia with the Paris Agreement.**

Introduction

Thank you for the opportunity to submit to this consultation process to "clarify and improve" the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2023*. The key consultation questions that this submission will engage with are:

- "how can Australia's Offshore Environment Regulations ensure targeted, effective, meaningful, and genuine consultation occurs, including culturally appropriate consultation with Traditional Owners and First Nations communities?"
- "how should titleholders best identify who is a relevant person or organisation for the purposes of consulting on a proposed offshore resources activity?"

While the consultation paper has indicated broader environmental questions will be considered at a later stage of this review process, the time-sensitive nature of climate change – especially methane forcing – demands this context be considered at all stages. As such, this response will engage with that context.

The Australia Institute has long called for an approvals process for the offshore petroleum industry that is more aligned with economic, environmental, and social goals.[3] Reform is needed to ensure that projects are appropriately evaluated by community and government. The context in which this process of consultation proceeds, however, undermines public trust in this process, and – by extension – offshore approvals themselves.

On November 10th, 2023, Senator Penny Wong criticised Coalition senators as they refused to support the *Environment Protection (Sea Dumping) Amendment (Using New Technologies to Fight Climate Change) Bill 2023*. In the Senate, she put to them, "do you know what you've been doing? You said no to Santos. You then said no to Woodside. You've said no to INPEX".[4] With these words, Wong revealed the origin and purpose of that legislation: to facilitate Santos's Barossa offshore gas project –

[3] Campbell (2023) *Submission on the sea dumping and carbon capture and storage bill 2023*, https://australiainstitute.org.au/report/submission-on-the-sea-dumping-and-carbon-capture-and-storage-bill-2023/; Ogge (2021) *Why the Scarborough LNG development cannot proceed*, https://australiainstitute.org.au/report/why-the-scarborough-lng-development-cannot-proceed/

[4] Australian Government, P*arliamentary Debates*, Senate, 10 November 2023, https://parlinfo.aph.gov.au/parlInfo/download/chamber/hansards/27140/toc_pdf/Senate_2023_11_10_Official.pdf

something subsequently confirmed by correspondence between oil and gas proponents and the government, released under freedom of information.[5]

It would seem this is not the only favor being done for Santos, and the rest of the gas industry. Consultation on ways to "clarify and improve" the *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2023* began on January 12th, 2024.[6] The very same day Australian Energy Producers (AEP) – the industry group that represents oil and gas explorers and producers in Australia – put out a statement welcoming the review.[7]

These congratulations clarify that this current consultation is a favor to the gas industry. This is evidenced by a joint letter sent by Santos, SK E&S, and JERA demanding changes to the approval process for offshore petroleum developments, sent to the Minister for Resources, Madeleine King, on October 6th, 2023.[8] A month later, speaking at the Committee for Economic Development of Australia's (CEDA)[9] 'WA Energy Transition Summit', Minister King "flagged imminent changes to provide clarity around consultation requirements for offshore gas projects after major court rulings shook investor confidence."[10] While the Coalition would later indicate that changes to the offshore approvals process were a pre-requisite for supporting the government's proposed reforms to the Petroleum Resources Rent Tax (PRRT),[11] it

[5] Patrick (2023) 'Carbon Captured: Santos emails reveal gas giant orchestrated "Environment Protection" laws', *Michael West Media*, https://michaelwest.com.au/carbon-captured-santos-emails-reveal-gas-giant-orchestrated-environment-protection-laws/; see also Campbell (2023) *Submission on the sea dumping and carbon capture and storage bill 2023*, https://australiainstitute.org.au/report/submission-on-the-sea-dumping-and-carbon-capture-and-storage-bill-2023/

[6] DISA (2024) *Clarifying consultation requirements for offshore oil and gas storage regulatory approvals: consultation paper*, https://consult.industry.gov.au/offshore-petroleum-consultation-requirements

[7] Australian Energy Producers (2024) *Media Release: Gas industry welcomes offshore consultation process*, https://energyproducers.au/all_news/media-release-gas-industry-welcomes-offshore-consultation-process/

[8] Gallagher, Choo and Kani (2023) 'Request for Urgent Policy Clarity – Offshore petroleum approvals', FOI LEX 74088, https://www.industry.gov.au/sites/default/files/2024-02/disclosure-log-24-011-74088.pdf

[9] CEDA's membership includes several oil and gas companies and representatives, including BP, Worley, and Woodside Energy, APPEA, INPEX Ichthys, and Origin Energy.

[10] Jervis-Bardy (2023) 'Madeleine King flags changes to offshore gas approvals after court rulings', *The West Australian*, https://thewest.com.au/business/mining/madeleine-king-flags-changes-to-offshore-gas-approvals-after-court-rulings-c-12575348

[11] Commins (2023) 'Coalition threatens to block Labor's petroleum resource rent tax reforms', *The Australian*, https://www.theaustralian.com.au/nation/coalition-threatens-to-block-labors-petroleum-resource-rent-tax-reforms/news-story/986b53642816f7326c6a8e900a1ab3bf?amp

would seem this current consultation was already in train. After all, the Government does not like to say "no" to Santos.

The only reason it would be necessary to "clarify and improve" the process for offshore oil and gas approvals is to facilitate *more oil and gas approvals.* Santos has acknowledged this, saying that reforms to assessment processes are needed to enable the final investment decision for the slated Dorado project – an oil and gas development north of Port Hedland, WA, expected to result in 168.5 million tonnes of greenhouse gas emissions (approximately 32% of Australia's annual emissions in 2023, excluding LULUCF).[12]

The context for Santos, and other petroleum proponents, demanding reforms to consultation regulations for offshore petroleum developments is clearly delays to projects due to recent Federal Court cases, especially those regarding consultation on Woodside's Scarborough and Santos's Barossa projects.[13] These court delays cost these companies money, and they would no doubt prefer not to have to deal with that kind of scrutiny. That the Government would consider weakening consultation requirements after their persecution of the "yes" campaign to enshrine an Indigenous "Voice" to Parliament in the Constitution, and after widespread community outrage after the Juukan Gorge scandal, is surprising.

Ultimately, however, the fact that the challenges to Scarborough and Barossa had to play out through the courts *does* indicate a failing of existing regulations. Far from indicating that existing arrangements are too stringent or complicated, however, these cases demonstrate that the current regime for approvals feature *insufficient* consultation or consideration of the broad social, cultural, economic, and environmental impacts of offshore petroleum development.

This submission presents an appraisal of the current process for offshore petroleum evaluation, outlines limitations of that process, and asks questions of the integrity and

[12] McKenzie (2024) 'Santos boss Kevin Gallagher says he needs clarity on approvals before moving on WA's Dorado oil project', *The West Australian*, https://thewest.com.au/business/oil-gas/santos-boss-kevin-gallagher-says-he-needs-clarity-on-approvals-before-moving-on-was-dorado-oil-project-c-13665606; Santos (2022) *Dorado Development Offshore Project Proposal*, https://docs.nopsema.gov.au/A901590

[13] Packham (2022) 'Santos pauses drilling in Barossa ahead of court ruling', *Australian Financial Review*, https://www.afr.com/companies/energy/santos-pauses-drilling-in-barossa-ahead-of-court-ruling-20220826-p5bd5a; Wootton (2022) 'Tiwi Islanders win landmark case blocking $5.4b Santos gas field', *Australian Financial Review*, https://www.afr.com/companies/energy/tiwi-islanders-win-landmark-case-blocking-5-6b-santos-gas-field-20220921-p5bjsq

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The state of offshore "approvals"

In 2014 the Abbott Government devolved the approval process for offshore petroleum activities from the environmental portfolio, and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), to the industrial portfolio, under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS Act)).[14] Since then, many of the frustrations that have been raised regarding the consultation process reflect broader systemic shortcomings of a process that is designed to deliver streamlined approvals for offshore petroleum projects as its primary outcome rather than genuine consultation in pursuit of the community interest.

The NOPSEMA process achieves this outcome by examining offshore petroleum projects in an incremental manner, considering a narrow range of impacts which are assessed against outdated and ineffective standards (often set by proponents themselves), in a system where project approval is the only possible outcome. This process fails to address many of the substantive issues that motivate community and stakeholder concerns, including impacts on the climate and host communities, and broader economic and social impacts.

The result is that the NOPSEMA system provides a greenwashing effect for offshore petroleum projects which includes co-opting respondents into a process that by design, can never adequately address their interests or concerns.

At the same time, the current suite of offshore petroleum projects under assessment by NOPSEMA include some of the most risky and contentious projects ever contemplated in Australia and globally. Proponents are targeting more remote, deep and technically challenging projects than ever before, in some of the most environmentally sensitive operating environments. These projects present unprecedented risks to the global climate, as well as Australia's environment and heritage.

Projects currently under assessment including the Woodside Scarborough and Santos Barossa developments are predicated on increasing global fossil fuel consumption and aim to exploit some of the world's largest known undeveloped fossil fuel reserves. This

[14] NOPSEMA (n.d.) *NOPSEMA EPBC Act Program*, https://www.nopsema.gov.au/offshore-industry/environmental-management/nopsema-epbc-act-program; Australian Government (2014) 'Explanatory Statement', *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Environment Measures) Regulation 2014*, https://www.legislation.gov.au/F2014L00157/latest/text/explanatory-statement

is occurring at a time of unequalled scientific consensus that new fossil fuel developments are fundamentally incompatible with a safe climate, and of global agreements supporting the phase out of fossil fuels.[15]

Research by The Australia Institute has demonstrated that under current policy settings, offshore petroleum projects in Australia provide few economic or other benefits to the Australian public,[16] and in many cases rely on significant direct and indirect government subsidies.[17] The history of assessment of these projects shows that their long-term impacts and costs are systematically underestimated or ignored, while the claimed short-term benefits are overstated, and do not eventuate in practise.

This situation is likely to worsen as the current suite of proposals are set to transfer unprecedented costs and risks to the Australian taxpayer including risks associated with accelerating climate impacts, unproven CCS operations, legacy and decommissioning cost, and impacts on environmental and cultural heritage. These costs are growing rapidly, while at the same time offshore petroleum projects are delivering fewer and fewer benefits to Australians.

Given this situation, it is no surprise that oil and gas companies in Australia now face dwindling public support, declining social license, and growing concerns from investors and host communities. A failure to address these concerns by both proponents and the Australian Government has led to increasing interest and engagement in the process for assessment and regulation of offshore petroleum developments, especially by those in host communities who are impacted most, and who often receive the least benefits.

A thorough assessment regime with the highest levels of integrity, scientific rigor, and public and stakeholder consultation is required so that investors, decision makers and the Australian public can evaluate the relative merits and risks of offshore petroleum projects. Such a process would involve independent examination of the overall costs and benefits of proposals according to the best available scientific information, taking

[15] Morton (2023) 'The latest IPCC report makes it clear no new fossil fuel projects can be opened. That includes us, Australia', *The Guardian Australia*, https://www.theguardian.com/commentisfree/2023/mar/21/the-latest-ipcc-report-makes-it-clear-no-new-fossil-fuel-projects-can-be-opened-that-includes-us-australia

[16] Ogge (2024) *The economic and climate impacts of gas development in Western Australia*, https://australiainstitute.org.au/wp-content/uploads/2023/11/P1533-WA-gas-economic-and-climate-impacts-WEB.pdf

[17] For example, see The Australia Institute (2023) Fossil fuel subsidies in Australia 2023 https://australiainstitute.org.au/report/fossil-fuel-subsidies-in-australia-2023/

into consideration both tangible and intangible environmental and heritage values, climate impacts, and other considerations over the life of the project. Such a process would protect and uphold the rights and interests of host communities including indigenous and other peoples affected by such developments.

The 'streamlined' approvals system currently administered by NOPSEMA does not reflect these requirements. By itself, the current system cannot effectively manage and regulate the impacts of offshore petroleum activities or ensure that Australians are sufficiently protected from their costs and impacts.

The system does not enable efficient functioning of the market, responsible investment, or decision making by government. By design, the NOPSEMA system leaves very large externalities unexamined, and does not provide for the disclosure of overall risks and impacts of projects in a manner or timeframe that can support informed decisions.

Reliance on this streamlined approval process as a proxy for assessment of offshore petroleum projects is delivering perverse outcomes for shareholders, host communities and all Australians. The overall effect is that the NOPSEMA process provides a greenwashing effect for developments that will have profound consequences for the global climate, as well as Australia's environment and communities.

It is no surprise that proponents who have made investment decisions and signed contracts for projects without adequate information about their risks and impacts are now lobbying government to change the rules so that their projects can go ahead on the timelines they anticipated. This represents a further transfer of risk from the petroleum industry to the Australian public. Companies should face the risks of their own decisions, not expect government to bail them out by changing the rules when those decisions turn out to be ill informed.

The Australia institute has previously called for an inquiry into the management of Australia's petroleum resources including the failure to establish adequate regulations, policies, royalty arrangements, taxation policies to manage these industries in the public interest. Such an inquiry should include examination of the current assessment regime administered by NOPSEMA, and the ongoing failure of this system to deliver outcomes in the public interest.

The following points summarise key systemic shortcomings in the NOPSEMA assessment process for offshore petroleum projects, including how the system fails to provide for adequate and effective consultation with those who are affected. Considered together, the overall result is a system which provides a significant

greenwashing effect for some of the most damaging industrial developments ever proposed in Australia and globally.

1. **Narrow scope of assessment**. Assessment and regulation are only applied to relatively narrow environment and heritage considerations with no assessment of a range of other factors including the overall costs and benefits of projects, impacts on host communities, or impacts on Australia's emissions reduction goals. See below for more detail on what is not assessed in the NOPSEMA process.

2. **Outdated and ineffective environmental standards.** The standard of protection afforded to those environmental values that are within the scope of the NOPSEMA system reflects the provisions of the EPBC Act. An independent review of this legislation has found that it is fundamentally inadequate and has resulted in ongoing systemic decline in Australian ecosystems and heritage places since the legislation came into effect.[18] The Australian government has acknowledged the EPBC Act is outdated and requires fundamental reform.[19]

3. **Environmental performance standards set by industry.** The NOPSEMA system requires that proponents demonstrate that environmental risks and impacts are managed to a standard of As Low as Reasonably Practicable (ALARP) and acceptable, taking into consideration the broader economic logic and profitability of the project. Assessment of what is reasonably practicable is a question that necessarily involves trade-offs between profit and environmental protection. This is largely left to proponents and does not require independent verification. In this way, proponents set the effective environmental standards for their own projects.

4. **Incremental granting of approvals.** The NOPSEMA system does not involve assessing all risks and impacts of a proposal to determine its overall acceptability before it is allowed to proceed. Instead, proposals are broken up into a number of smaller components which are assessed on their individual merits. This leads to proponents receiving approvals for drilling, pipelines and construction of offshore gas facilities before climate impacts, decommissioning,

[18] DCCEEW (2020) independent review of the EPBC Act https://epbcactreview.environment.gov.au/resources/final-report/foreword

[19] The Hon Tanya Plibersek MP Minister for the Environment and Water (2022) Media statement: Labor's Nature Positive Plan: better for the environment, better for business https://minister.dcceew.gov.au/plibersek/media-releases/media-statement-labors-nature-positive-plan-better-environment-better-business

or other impacts of the operational stage of the projects are understood or assessed in detail.

5. **Inadequate information to support rational decisions.** Environmental assessment is not just about protecting the environment, it is about providing the necessary information for investors to understand the costs and risks they are exposed to when investing in resource projects. The incremental approach to assessment by NOPSEMA enables proponents to make investment decisions for some of Australia's largest, most expensive, and most controversial industrial developments before many of the environmental and other risks have been identified and understood. This encourages reckless decision making and exacerbates an already significant market failure where environmental and other considerations are treated as externalities.

6. **Project design lock in.** Another consequence of incremental assessment and early investment decisions is the inflexible lock-in of projects as location, engineering, design, costing, timelines and other elements of projects are decided before detailed consultation occurs, or understanding of environmental risks is obtained through the assessment process. This has significant consequences for both consultation, and the eventual environmental outcomes that result.

7. **Tokenistic consultation and unrealistic expectations.** When key decisions have already been made based on assumptions that have not been tested, industry frequently adopts unrealistic expectations regarding approval timelines and outcomes. In many cases, respondents with little resources are expected to provide detailed information and feedback to proponents in timeframes that are totally unrealistic. This also leads to tokenistic consultation where proponents are unable or unwilling to make significant changes to projects to mitigate impacts, regardless of what issues or values are identified during consultation.

8. **Rights and interests not upheld.** Consultation undertaken by proponents pursuant to the NOPSEMA process, and the process itself, has failed to reflect and uphold the rights of Indigenous peoples. In particular, it does not provide for Indigenous people to exercise the right of free, prior and informed consent (FPIC) as reflected in the UN Declaration of the Rights of Indigenous Peoples. Where project approvals are the only possible outcome, and respondents are presented with project designs and timelines that are inflexible, there is no way for the right of free, prior and informed consent to be exercised by respondents.

9. **Inadequate information provided to respondents**. The amount and quality of information being released by proponents for consultation is often grossly insufficient and fundamentally lacking in transparency about the nature of the project and its impacts. For example, consultation documents on proposed Environment Plans (EP's) are often just 5-15 pages, while proponents routinely refuse to release draft EP's or supporting documents and evidence to respondents during the consultation phase. This leaves respondents guessing about the nature of the project and its impacts.

10. **Proponents rely on untested best practice claims**. Consultation documents on Offshore Petroleum projects frequently contain numerous claims that 'best practice' will be followed by proponents. These claims usually provide no detail about how impacts will be mitigated in practice, what outcome will be achieved, what alternative mitigation options have been considered, and what criteria was applied in making such decisions. This means that respondents to consultation have no way of knowing what the eventual outcomes will be, and have no way of testing proponent claims about environmental performance.

11. **No assessment of impacts on emissions reduction goals** Despite public commitments from the Australian Government that EPBC approvals for new projects will trigger an assessment against Australia's emissions reduction targets and carbon budget,[20] there is no evidence that projects receiving approvals from NOPSEMA (including some of the most polluting projects ever contemplated in Australia) have triggered such an assessment. As such there is no consideration of the very significant costs that will be passed on to other businesses and households who will inevitably bear greater mitigation costs to accommodate pollution growth from new offshore petroleum projects.

12. **No assessment of impacts on host communities** Other than a narrow range of considerations that relate to environmental and heritage impacts as defined under the outdated EPBC Act, the NOPSEMA process provides no avenue for consideration or assessment of impacts on host communities. In many cases, host communities bear disproportionate impacts and receive disproportionately small benefits. Social and socio-economic impacts of petroleum projects on host communities can be profound, and can include

[20] The Hon Chris Bowen MP Minister for Climate Change and Energy (2023) Safeguard Mechanism one step closer to Parliamentary passage https://minister.dcceew.gov.au/bowen/media-releases/safeguard-mechanism-one-step-closer-parliamentary-passage

disconnection from land and culture, reduced social cohesion, impacts on health, and entrenched inequality as benefits are unevenly distributed.

13. **No assessment of economic impacts.** Research by The Australia Institute shows that the economic benefits of petroleum projects in Australia are routinely over-stated while the costs are underestimated. Offshore petroleum projects in Commonwealth waters pay no royalties, enjoy significant tax concessions and direct and indirect subsidies, and deliver fewer jobs than any other industry sector in Australia. While the economic benefits of these projects are privatised, the costs are socialised. The significant economic costs of climate impacts caused by these projects (including increased frequency and severity of heatwaves, bushfires, floods and other extreme weather events) are growing rapidly, yet these costs are bore by Australian taxpayers and communities rather than the fossil fuel companies whose projects are responsible for these impacts.

14. **No assessment of impact on Australia's domestic energy market.** The vast majority of the gas that is produced (and for some projects, 100%) is provided to export markets which provides no benefit to Australians. Gas that is supplied to the Australian market is currently delivered via a cartel-like arrangement which provides maximum profits to gas companies at the expense of Australian consumers.[21]

15. **No assessment of strategic other impacts** There is no assessment of critical strategic questions including the overall impacts of offshore petroleum projects on Australia's competitiveness in a decarbonising global economy, or other strategic implications of locking in highly polluting industries for decades to come. There is no assessment of security and other strategic considerations.

[21] Ogge (2022) *Gas Export Facts Show Industry Claims Full of Hot Air*, https://australiainstitute.org.au/post/gas-export-facts-show-industry-claims-full-of-hot-air/

Consulting on a flawed premise

THE CLIMATE CONTEXT

So far, this submission has outlined concerns regarding the process that led to this current consultation, and the existing limitations of the offshore petroleum "approvals" regime. Here we look at the climate and economic context of offshore petroleum developments, with implications for the pace and scope of this current consultation.

In the consultation paper, *Clarifying consultation requirements for offshore petroleum and greenhouse gas storage regulatory approvals*, the Government assures us that "this paper is part of a broader review of the offshore environmental management framework for offshore resources activities".[22] This broader review is expected to run over 3 years, and that later stages of the review will "ensure [Offshore Environment Regulations are] fit for purpose for a decarbonising economy [and] reflect best practice for offshore environmental management".[23] In the context of rapidly diminishing carbon budgets[24] – especially when methane forcing is taken into account – delaying consideration of climate change in our offshore petroleum regulatory environment is deeply problematic. Australia's "fair share" of remaining carbon budgets is vanishing; a 3 year review process gives us little to no time to meet our targets.[25]

Put simply, this current consultation puts the cart before the horse. Why "clarify and improve" the process for community consultation for offshore petroleum developments when scientists globally have made it clear that there is no scope for new fossil fuel projects, if we are to keep warming below 1.5°C?[26] As raised above, the current NOPSEMA "approval" process is precisely that – a process which facilitates the approval of new projects. No matter how consultation is structured, it will struggle to

[22] DISA (2024) *Clarifying consultation requirements for offshore oil and gas storage regulatory approvals*, p. 3.

[23] Ibid.

[24] Lamboll *et al* (2023) 'Assessing the size and uncertainty of remaining carbon budgets', *Nature Climate Change*, https://doi.org/10.1038/s41558-023-01848-5

[25] Ryan (2023) *New research shows our 2030 emission targets are woefully out of date*, https://australiainstitute.org.au/post/new-research-shows-our-2030-emission-targets-are-woefully-out-of-date/

[26] Welsby, Price, Pye, and Ekins (2021) 'Unextractable fossil fuels in a 1.5 °C world', *Nature*, https://www.nature.com/articles/s41586-021-03821-8; IEA (2021) *Net Zero by 2050: A Roadmap for the Global Energy Sector*, https://www.iea.org/reports/net-zero-by-2050

overcome large and growing community opposition to projects that are incompatible with a livable climatic future.

Further, the scope of both the current offshore petroleum approvals process, and this current consultation into that regulatory environment, continues to obfuscate a clear-eyed consideration of the appropriateness of facilitating by regulation carbon capture and storage (CCS). CCS is a technology that has failed for decades – something that has never been sufficiently addressed by governments or proponents, and which heightens contention over new offshore approvals.

As The Australia Institute indicated in a previous submission, the passage of the *Environment Protection (Sea Dumping) Amendment (Using New Technologies to Fight Climate Change) Bill 2023* was a direct favor to Santos, and a support to the offshore gas industry as a whole.[27] This process gave insufficient attention to the feasibility and track record of CCS – a limitation duplicated in this current consultation. Once again, the government is saying "yes" to Santos, something first seen with the sea dumping Bill, and here again with a narrowing of consultation requirements.

Framing submissions on the sea dumping Bill was a report of the House Standing Committee on Climate Change, Energy, Environment and Water, entitled *Inquiry into the 2009 and 2013 amendments to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Protocol)*.[28] The shallow engagement in this report with the science on CCS is emblematic of continued uncritical acceptance of this beleaguered technology.

The House report includes minimal detail on how many CCS projects are operating, the volume of greenhouse gasses they store, their costs, or any kind of assessment of how realistic the Santos project, and others, are. The House Committee report explains this omission:

> The Committee notes from the outset that this is not an inquiry into the science or merits of carbon capture and storage (CCS) which has been considered by past committees, such as the report of the House Standing Committee on Science and Innovation, *Between a rock and a hard place: The science of*

[27] Campbell (2023) *Submission on the sea dumping and carbon capture and storage bill 2023*, https://australiainstitute.org.au/report/submission-on-the-sea-dumping-and-carbon-capture-and-storage-bill-2023/

[28] Australian Government – House of Representatives (2023) *Inquiry into the 2009 and 2013 amendments to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Protocol)*, https://www.aph.gov.au/Parliamentary_Business/Committees/House/Climate_Change_Energy_Environment_and_Water/LondonProtocol/Report

> *geosequestration*. CCS was considered in the course of the inquiry but only in the context of how it relates to the respective amendments.

The *Between a rock and a hard place* report was published in 2007. Its focus is on retrofitting CCS to coal fired power stations, something that has only been achieved once anywhere in the word since (see below). The 2007 report noted:

> In Australia and internationally there is currently a large stock of pulverised coal-fired power stations. Many of these plants are expected to operate for up to 40 more years. If serious cuts in emission are to be achieved by 2050, some form of post-combustion capture technology will need to be part of the CCS strategy.

The report is outdated, to put it mildly. There was already significant scepticism regarding CCS in 2007; the *Between a rock and a hard place* report quotes a 2004 Australia Institute report that estimated CCS could (at best) be commercially viable by 2020 and reduce emission by 9% in 2030.[29] However, these views had little impact on the Committee, which recommended significant resourcing of CCS projects. A dissenting report by four Liberal Party members was not sceptical of the potential for CCS, but sceptical of anthropogenic global warming, famously claiming:

> Another problem with the view that it is anthropogenic greenhouse gases that have caused warming is that warming has also been observed on Mars, Jupiter, Triton, Pluto, Neptune and others.
>
> It is the natural property of planets with fluid envelopes to have variability in climate. Thus, at any given time, we may expect about half the planets to be warming. This has nothing to do with human activities.

The dissenting report was mocked at the time,[30] and, as the quotes above show, the main report has not aged well either. It is not, in our view, appropriate for any legislation concerning greenhouse gas storage in 2024 to proceed without a thorough examination of the state of CCS use, technology and economics. That the Government has as recently as 2023 proceeded on the basis that this was done in the 2007 *Between a rock and a hard place* report approaches farce.

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[29] Saddler et al (2004) *Geosequestration: What is it and how much can it contribute to a sustainable energy policy for Australia?*, https://australiainstitute.org.au/report/geosequestration-what-is-it-and-how-much-can-it-contribute-to-a-sustainable-energy-policy-for-australia/

[30] Crabb (2007) *Aliens in the house from the Planet Propaganda*, https://www.smh.com.au/national/aliens-in-the-house-from-the-planet-propaganda-20070814-gdquou.html

We provide here a brief snapshot of operating CCS projects based on the report *Global status of CCS 2022*.[31] According to the Global CCS Institute, in 2022 there were just 30 CCS projects operating globally, with a combined nameplate capacity of 43 million tonnes per year. To put this in context, the combined emissions of just four coal fired power stations in Australia emit more greenhouse gasses than the total capacity of all currently-operating CCS projects in the world.[32]

Of the 30 operating CCS projects, 20 are dedicated to enhanced oil recovery (EOR). EOR projects inject carbon dioxide into underground reservoirs of oil and gas in order to extract more fossil fuels. To put it plainly, EOR projects are aimed at increasing greenhouse gas emissions, not reducing them. Over their lifecycle, we estimate that EOR projects result in three tonnes of CO2 emissions for every tonne of CO2 stored.[33] EOR can have CO_2 retention rates lower than 30 percent,[34] but can increase the amount of oil recovered by up to 40 percent and extend the life of oil fields by decades.[35]

The world's ten operating CCS projects that are not dedicated to EOR have a total nameplate capacity of just 11.6 million tonnes per year, as shown in Table 1 below.

Table 1 shows that the total nameplate capacity of operating CCS projects that are not entirely dedicated to extracting more fossil fuels is 11.6 million tonnes per year. For context, this is less than the annual emissions of either Loy Yang A power station in Victoria or Bayswater power station in NSW.[36]

[31] Global CCS Institute (2023) *Global status of CCS 2022*, https://www.globalccsinstitute.com/resources/global-status-of-ccs-2022/

[32] Emissions of Loy Yang A, Bayswater, Yallourn and Eraring in 2021-22 sum to 52.7 million tonnes. Clean Energy Regulator (2023) *Electricity sector emissions and generation data 2021–22*, https://www.cleanenergyregulator.gov.au/NGER/National%20greenhouse%20and%20energy%20reporting%20data/electricity-sector-emissions-and-generation-data/electricity-sector-emissions-and-generation-data-2021%E2%80%9322

[33] Ogge et al (2021) *Santos' CCS scam*, https://australiainstitute.org.au/report/santos-ccs-scam/

[34] Longden at al (2021) 'Clean' hydrogen? An analysis of the emissions and costs of fossil fuel based versus renewable electricity based hydrogen, http://iceds.anu.edu.au/files/2020%2003%2025%20-%20ZCEAP%20-%20CCEP%20Working%20Paper%20-%20Clean%20hydrogen%20emissions%20and%20costs_0.pdf

[35] United States Government, Office of Fossil Energy and Carbon management (2021) Enhanced Oil Recovery, https://www.energy.gov/fecm/science-innovation/oil-gas-research/enhanced-oil-recovery

[36] Clean Energy Regulator (2023) op cit.

Table 1: Operating CCS projects (excluding EOR-only projects)

Project name	Country	Year started	Industry	Nameplate capacity (Mtpa)
Gorgon Carbon Dioxide Injection	Australia	2019	Gas processing	4
Qatar LNG CCS	Qatar	2019	Gas processing	2.2
Quest	Canada	2015	Hydrogen	1.3
Sleipner CO2 Storage	Norway	1996	Gas processing	1
Illinois Industrial Carbon Capture and Storage	USA	2017	Ethanol	1
Boundary Dam 3 Carbon Capture and Storage Facility	Canada	2014	Power generation	1
Snohvit CO2 Storage	Norway	2008	Gas processing	0.7
Glacier Gas Plant MCCS	Canada	2022	Gas processing	0.2
Red Trail Energy CCS	USA	2022	Ethanol	0.18
Orca	Iceland	2021	Direct air capture	0.004
Total				11.6

Source: Global CCS Institute (2023)

Table 1 shows that the largest operating CCS project is Australia's Gorgon project, with a nameplate capacity of 4 million tonnes per year. Gorgon began operations years behind schedule and is currently operating at just one third of its nameplate capacity.[37] Gorgon has been subsidised by the Commonwealth and WA Governments, which further brings into question the viability of such schemes.[38]

The submission to the House Inquiry to the inquiry into the Amendments to the London Protocol by the Australian Petroleum Production and Exploration Association (APPEA) claimed that Santos' Bayu-Undan CCS project would have capacity of 10 million tonnes per year.[39] On this basis, Santos' proposal would be 2.5 times larger

[37] Mercer (2023) *World's biggest carbon capture plant running at one third capacity, Chevron Australia reveals*, https://www.abc.net.au/news/2023-05-17/chevron-australia-carbon-capture-storage-gorgon-third-capacity/102357652

[38] Swann (2018) *Gorgon-tuan problem*, https://australiainstitute.org.au/report/gorgon-tuan-problem/

[39] APPEA (2023) Parli*amentary Inquiry: Submission to the inquiry into the Amendments to the London Protocol*,

than any existing project and almost ten times the current sequestration rate of that world's largest project. No analysis of the plausibility of this proposal appears to have been submitted to the House Inquiry.

Most other projects listed in Table 1 are also problematic. There seems to be little transparency around the Qatar LNG CCS project.[40] Both of the Norwegian projects have recently encountered geological problems.[41] Boundary Dam, the world's only CCS-equipped coal fired power station, is operating at around half capacity and it is partially an EOR project.[42]

In short, all the operating CCS projects in the world would struggle to contain the emissions of the Port Kembla Steelworks near Wollongong (6.2 million tonnes in 2021-22).[43] Such critical analysis of CCS is almost entirely absent from public agency advice to the Minister and the House Inquiry.

That the *Environment Protection (Sea Dumping) Amendment (Using New Technologies to Fight Climate Change) Bill 2023* passed the parliament despite these fatal assessment of the track record and prospects of CCS is deeply concerning. That this current consultation into offshore approvals continues without sufficient engagement with these questions suggests that meaningful consultation is not intended either for this process of policy reform, or for the offshore approval process itself. Offshore approvals will necessarily be needed for future CCS projects in Australian waters, as well as pipelines for transporting captured carbon. How can consultation with concerned and impacted parties be successful if approvals for scientifically flawed CCS projects are baked into the system?

Put simply, the state of CCS means this technology is insufficient to allow offshore gas developments to go ahead, if we are to address climate change.

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https://www.aph.gov.au/Parliamentary_Business/Committees/House/Climate_Change_Energy_Environment_and_Water/LondonProtocol/Submissions

[40] Hodge (2022) *Carbon capture and storage (CCS) in the Middle East – a future powerhouse of the hydrogen industry?*, https://www.spglobal.com/commodityinsights/en/ci/research-analysis/carbon-capture-and-storage-ccs-in-the-middle-east.html.

[41] Hauber (2023) *Norway's Sleipner and Snøhvit CCS: Industry models or cautionary tales*?, https://ieefa.org/resources/norways-sleipner-and-snohvit-ccs-industry-models-or-cautionary-tales

[42] Anchondo (2022) *CCS 'red flag?' World's sole coal project hits snag*, https://www.eenews.net/articles/ccs-red-flag-worlds-sole-coal-project-hits-snag/

[43] Clean Energy Regulator (2023) *Safeguard facility reported emissions 2021-22*, https://www.cleanenergyregulator.gov.au/NGER/The-safeguard-mechanism/safeguard-data/safeguard-facility-reported-emissions/safeguard-facility-reported-emissions-2021-22

THE ECONOMIC CONTEXT

As explored throughout this submission, there is an assumption that is baked into current offshore petroleum approvals, as well as this current consultation: that offshore gas is desirable, and ought to proceed after streamlined consultation. This is undermined by the climate context, and the state of CCS. It is also undermined by the economic context of offshore gas. Specifically, that the economic benefits of offshore gas flow entirely to private companies, often housed offshore, and generate little rents, revenue, employment, or growth. It is hard to see how a "clarified and improved" consultation process will overcome these issues.

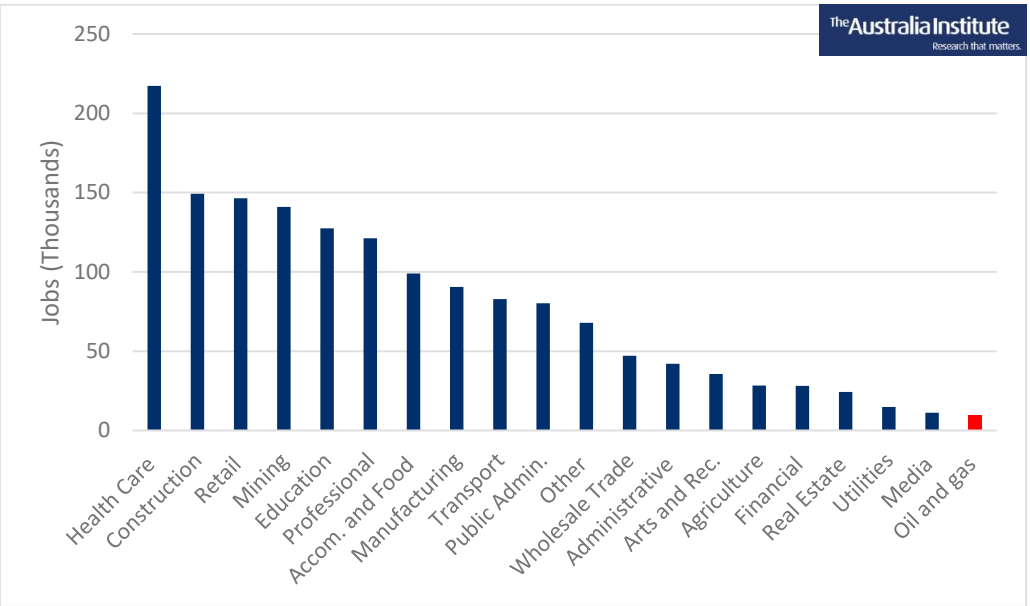
Elsewhere the Australia Institute has demonstrated that the economic benefits of gas developments are vastly overstated.[44] Western Australia, as the state with the biggest gas industry, provides a useful case study.

Despite the enormous quantities of gas that LNG companies export from Western Australia, those companies provide surprisingly few jobs. As shown in Figure 1 below, the oil and gas industry employs less than 1% of the Western Australian workforce as a whole.

This is because the oil and gas industry is a particularly jobs-poor industry. As shown in Figure 2 below, for every million dollars of output, the oil and gas industry employs just 0.2 workers. By comparison, the health, education and public service industries each employ over eight people per million dollars of output. If the WA government's objective is to create jobs, supporting virtually any other industry would be more effective.

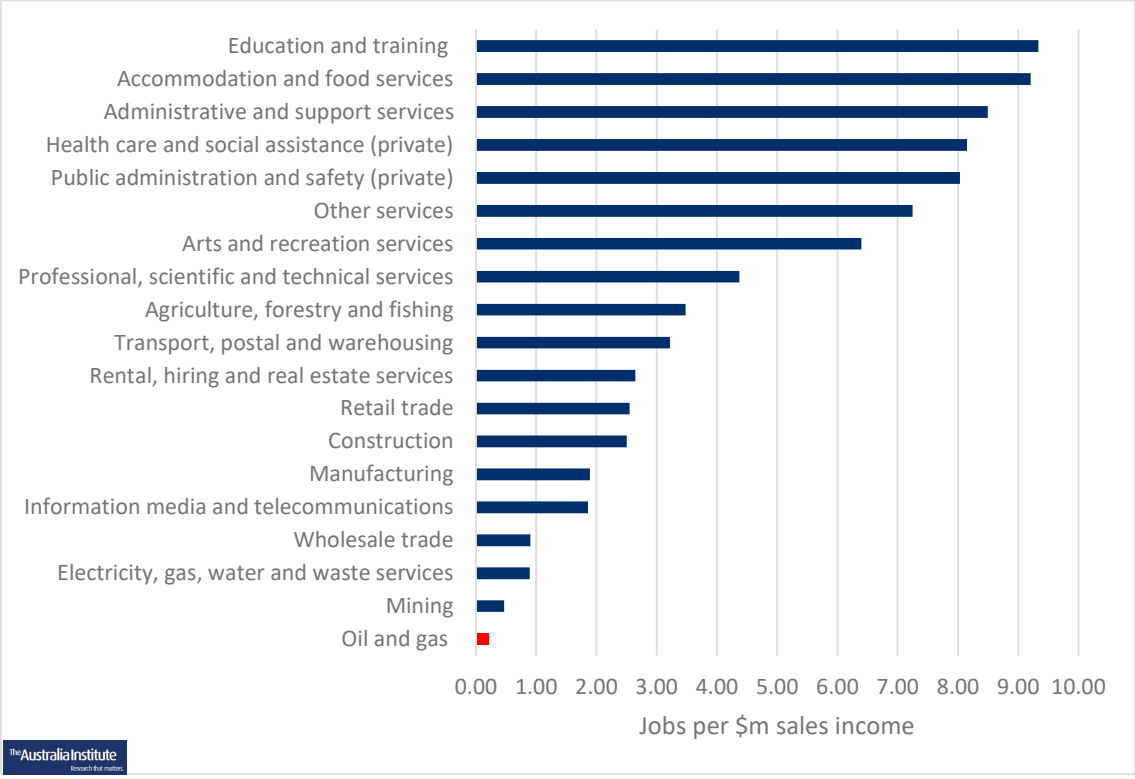
[44] Ogge (2023) *The economic impacts of gas development in the Northern Territory*, https://australiainstitute.org.au/report/the-economic-impacts-of-gas-development-in-the-northern-territory/; Jericho and Thrower (2024) *Yes, the government collects more money from HECS than it does from the petroleum resource rent tax*, https://australiainstitute.org.au/post/yes-the-government-collects-more-money-from-hecs-than-it-does-from-the-petroleum-resource-rent-tax/

Figure 1: Employment by selected industry, WA



Source: ABS (May 2023) Labour Force, Australia, Detailed, Table EQ06, https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia-detailed/latest-release.

Figure 2: Job intensity of selected Australian industries (jobs per $m sales income)



Source: ABS (May 2023) *Australian Industry, 81550DO001_202122, 2021-22* and 81550DO002_202122 Australian Industry, 2021-22, https://www.abs.gov.au/statistics/industry/industry-overview/australian-industry/latest-release#data-downloads

The oil and gas industry often inflates its jobs numbers by including "indirect jobs". This practice is based on the idea that the oil and gas industry and its workers spend money at businesses in the rest of the economy, leading to the creation of additional "indirect" jobs whose existence can thus be attributed to the gas industry.

However, this idea bears little scrutiny. Workers in *all* industries dine out and buy cars. All industries require buildings, infrastructure, goods and services to operate. Teachers and nurses require hospitals and schools, which are built by construction workers—who also dine out and buy cars.

In fact, the oil and gas industry may have a *smaller* flow-on effect to the rest of the economy than other industries, because so much of its equipment—and even infrastructure—is purchased overseas. For instance, the three LNG facilities in Queensland were built by global infrastructure giant Bechtel. These "modular" LNG facilities were designed in Houston, New Delhi, and Shanghai; built in the Philippines, Indonesia, and Thailand; and floated to Queensland for assembly.[45]

Oil and gas industry lobbyist group Australian Energy Producers (AEP) claims that the industry "supports" 80,000 jobs "directly and indirectly" across Australia.[46] ABS statistics show that the oil and gas industry employs around 20,000 workers nationally.[47] This means that the AEP is assuming that for every person actually working in the industry, around four indirect jobs are created.

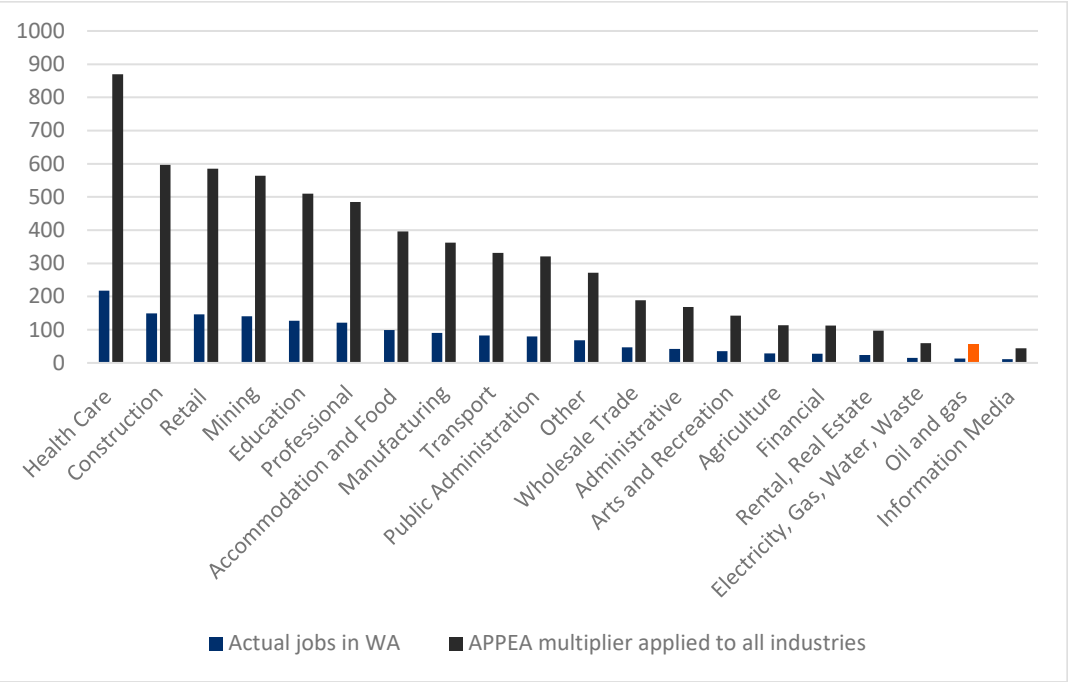
As noted above, there is nothing particularly special about oil and gas employees, and as such, if this figure was correct for the oil and gas industry, we would expect it to hold for other industries. However, as shown in Figure 3 below, if this logic is in fact applied to all industries in Western Australia, the number of indirect jobs created adds up to four times the jobs that actually exist in the state!

[45] Bechtel (2023) Curtis Island LNG, https://www.bechtel.com/projects/curtis-island-lng/

[46] AEP (2022) APPEA Federal Budget 2022/2023 Submission, https://treasury.gov.au/sites/default/files/2022-03/258735_australian_petroleum_production_and_exploration_association.pdf

[47] ABS (September 2023) Labor Force, Australia, Detailed EQ06, https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia-detailed/latest-release

Figure 3: AEP (formerly APPEA) jobs multiplier applied to all industries



Source: ABS (May 2023) Labour Force, Australia, Detailed, Table EQ06, https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia-detailed/latest-release. Oil and gas employment figures include a proportionate share of Exploration and Other Mining Services. AEP (2022) APPEA Federal Budget 2022/2023 Submission, https://treasury.gov.au/sites/default/files/2022-03/258735_australian_petroleum_production_and_exploration_association.pdf

Beyond employment, the benefits to communities of the offshore oil and gas industry are vastly overstated. The global oil and gas giants operating in Australia made windfall profits of between $26 billion and $40 billion in the financial year 2021–22.[48] Despite this, many projects pay no royalties, and many of the companies involved also pay little or no company income or resource taxes. It is unclear how "clarified and improved" consultation will result in better benefit-sharing with communities.

Oil and gas company profits are taxed by the Commonwealth government. The two main taxes are company income tax and petroleum resource rent tax (PRRT); the latter is a tax on resource rents or "super-profits."

The Deputy Commissioner of the Australian Taxation Office (ATO) has singled out the oil and gas industry as home to "systemic non-payers" of tax.[49] It is thus instructive to

[48] Ogge (2022) *War gains: LNG Windfall Profits 2022*, https://australiainstitute.org.au/wp-content/uploads/2022/10/P1289-War-gains-LNG-windfall-profits-2022-Web.pdf

[49] McIlroy (2019) *Oil, gas 'systemic non-payers' of tax*, https://www.afr.com/politics/federal/oil-gas-systemic-non-payers-of-tax-20191211-p53iys

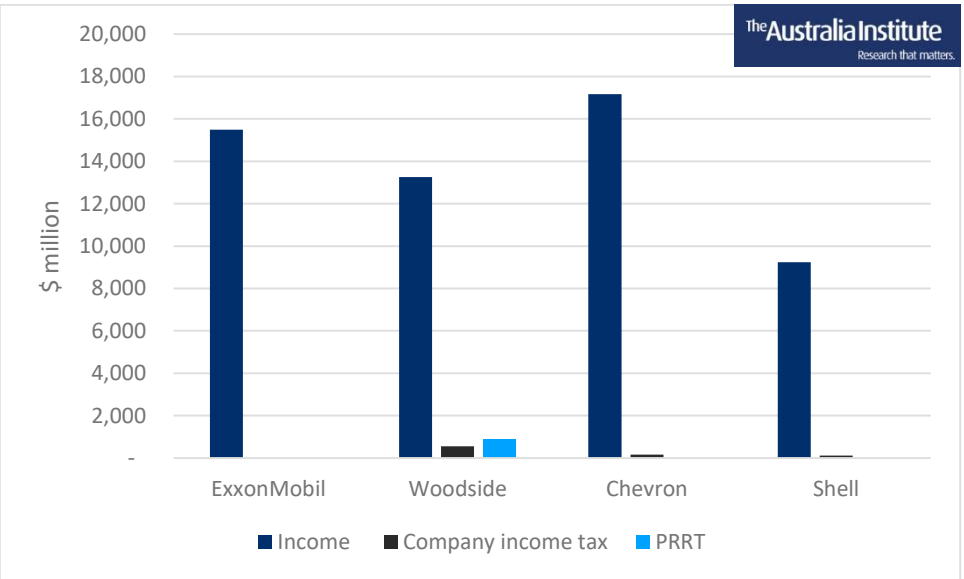
consider the tax paid by the four largest LNG companies operating in Western Australia, which (by share of projects) are Woodside, Chevron, Shell and Exxon.

The most recent published data on tax paid by corporations in Australia is for the financial year 2021–22. In this year, Exxon accrued $15.5 billion of income, on which it paid no company income tax at all. Chevron paid less than 1% on its $17 billion income as tax; Shell paid 1.3% on its $9.2 billion income; and Woodside paid 4.2% on $13 billion income.

Three of the companies—Shell, Exxon and Chevron—paid no PRRT at all. Woodside paid $884 million.

Figure 4 below compares the company tax and PRRT contributions of these companies to their revenue for the financial year 2021–22.

Figure 4: Four largest WA LNG export companies' income, company income tax and PRRT 2021-22

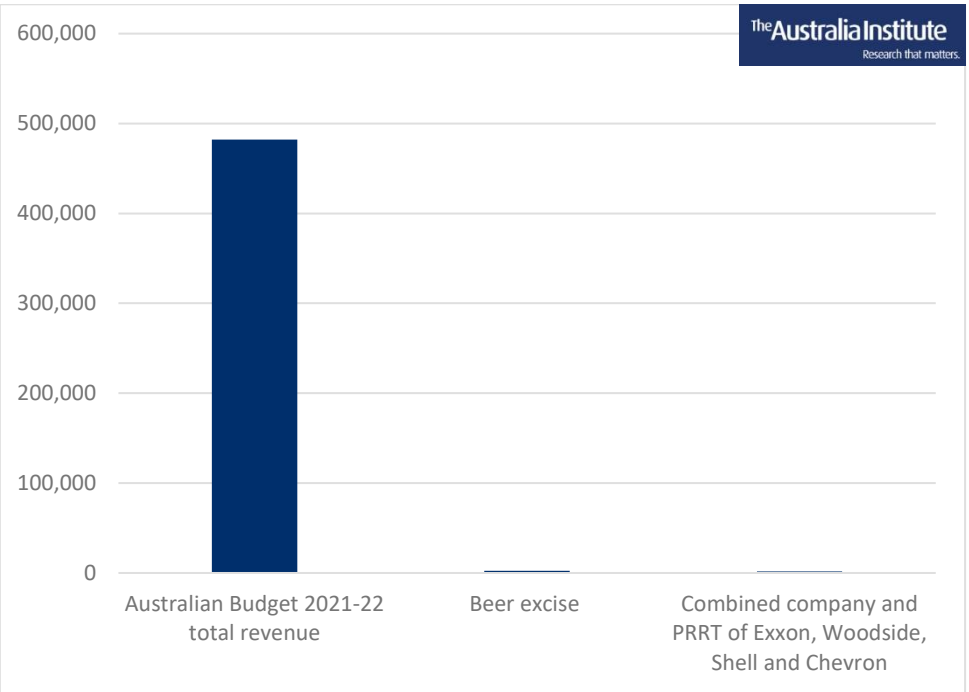


Source: ATO (2023) Corporate Tax Transparency data 2021-22, https://data.gov.au/dataset/ds-dga-c2524c87-cea4-4636-acac-599a82048a26/details Woodside income and tax includes Burrup Facilities Pty LTD and Burrup Train 1 Pty Ltd,

The combined income of these four companies in 2021–22 was $54.7 billion—and the total Commonwealth income tax and PRRT they paid was $1.7 billion. As Figure 5 below shows, this tax revenue represented less than 0.4% of the Commonwealth

government's total income in that year, and was substantially less than the $2.5 billion raised by the Government from Australian beer drinkers through the beer excise.[50]

Figure 5: WA oil and gas industry contribution to Australian Government revenue 2021-22 compared to total revenue and beer excise.



Source: Australian Government (2023) *Budget paper 1, table 5.1 total receipts,* https://archive.budget.gov.au/2021-22/bp1/download/bp1_2021-22.pdf, : ATO (2023) Corporate Tax Transparency data 2021-22, https://data.gov.au/dataset/ds-dga-c2524c87-cea4-4636-acac-599a82048a26/details

[50] Australian Government (2023) *Budget 2023-24, Budget paper 1*, table 5.1 total receipts, https://archive.budget.gov.au/2021-22/bp1/download/bp1_2021-22.pdf

Conclusion

The sequence of events that led to this current review of Australia's Offshore Environment Regulations suggests that the government is responding to complaints from Santos and other offshore petroleum proponents, after their projects – including Woodside's Scarborough and Santos's Barossa – were delayed by contested environmental review processes. This is the same Federal Government who so recently castigated the Coalition Opposition for "saying no to Santos". There would seem to be a hope across the oil and gas industry that a "clearer" process for consultation – especially for engagement with Traditional Owners and First Nations communities – will facilitate faster approvals.

Ultimately, however, the fact that the challenges to Scarborough and Barossa had to play out through the courts *does* indicate a failing of existing regulations. Far from indicating that existing arrangements are too stringent or complicated, however, these cases demonstrate that the current regime for approvals feature *insufficient* consultation or consideration of the broad social, cultural, economic, and environmental impacts of offshore petroleum development.

The only reason it would be necessary to "clarify and improve" the process for offshore oil and gas approvals is to facilitate *more oil and gas approvals.* In a rapidly deepening climate crisis, with all scientific evidence showing that we categorically do not need any additional investment in new coal, oil or gas, this consultation – and the entire "approvals" regime – would seem to be based on a false premise.

It is past time to say "no" to Santos.