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29 July 2015

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Senate Inquiry into corporate tax avoidance and minimisation

Shell Australia¹ welcomes the opportunity to make this submission in response to your letter of 14th July 2015.

1. Background – About Shell

Shell² is a global group of energy and petrochemical companies, with its headquarters in The Hague, the Netherlands. Shell operates in over 70 countries around the world and employs around 94,000 people.

In April 2015, the Boards of Royal Dutch Shell plc and BG Group plc agreed the terms of a proposed merger. The parties are targeting completion of the transaction in early 2016 and are currently seeking regulatory approvals in a number of jurisdictions. Subject to obtaining these approvals, the companies' shareholders will then be asked to support the proposal.

Shell in Australia

Shell has been in Australia since 1901 and the Australian business forms an important part of Shell's global natural gas business. Historically, our significant investments in Australia spanned across both the downstream and upstream sectors.

In 2014 Shell sold its downstream refining, marketing and retail distribution operations to Vitol, and our business is now largely focused within the upstream sector – although Shell continues to supply aviation fuels and lubricants.

¹ "Shell Australia" refers to Shell Australia Pty Ltd or any of the members of the Australian tax consolidated group of which Shell Energy Holdings Australia Ltd (SEHAL) is the head company.

² The companies in which Royal Dutch Shell plc directly and indirectly owns investments are separate entities. In this submission, references to "Shell", "Shell group" and "Royal Dutch Shell" are used for convenience where references are made to Royal Dutch Shell plc and its subsidiaries in general. Likewise, the words "we", "us" and "our" are also used to refer to subsidiaries in general or to those who work for them.

Shell is one of the largest investors in Australia with plans to invest approximately \$30-50 billion of capital within the current decade. We are also the second largest holder of oil and gas resources in Australia and uniquely positioned as one of the nation's largest integrated energy companies.

Our major investments in key Australian Liquefied Natural Gas (**LNG**) projects include the:

- Prelude Floating LNG (**FLNG**) project (67.5% equity);
- Gorgon Joint Venture (25% equity);
- North West Shelf Venture (16.67% equity);
- Browse Joint Venture (27% equity); and
- Sunrise Joint Venture (26.6% equity).

In 2010 Shell and PetroChina jointly acquired Arrow Energy Limited (**Arrow**), a Queensland coal seam gas company with resources in the Surat and Bowen basins. Shell and PetroChina each hold 50% of Arrow.

As the group's major projects in Australia come online, they will generate significant additional economic benefit for Australia.

2. Shell's approach to taxation and transparency

Shell seeks to make a positive contribution to the countries in which it operates, including full compliance with its taxation obligations. While Shell uses legitimate tax incentives and exemptions designed by governments to promote investment, employment and economic growth, we strongly oppose all forms of tax fraud or evasion.

Internationally, Shell is currently contributing to the work of the Organisation for Economic Co-operation and Development (**OECD**) in relation to its Base Erosion and Profit Shifting (**BEPS**) Action Plan, through senior representation on the Business and Industry Advisory Committee.

Shell:

- expects to pay tax on its activities only once;
- supports a transparent and coordinated approach to deal with BEPS concerns;
- urges restraint in unilateral actions and non-coordinated legislative change. Proposed solutions should be targeted and proportional.

Shell recognises and respects the right of the Australian Government to set and adjust taxation policy and legislation; however we see it as very important that the long term nature of investments in energy projects is recognised as part of that process. In particular, fiscal stability is critical for investors in LNG projects as they require billions of dollars of upfront capital investment and usually more than a decade for investors to make a return on this investment.

Compared with other jurisdictions, Australia is considered a high cost business environment, driven by escalating project costs over the last decade. This has resulted in Australian projects becoming some of the most expensive LNG projects in the world. Changes to the taxation system should take into account the nature of oil and gas projects so as not to damage Australia's international competitiveness, heighten uncertainty about the future stability of the taxation system and fiscal position, or threaten future LNG investment.

On that basis, stability of taxation arrangements is critical. It is unarguable that the oil and gas sector is of vital importance to the long term prosperity of the nation. Ill considered reform could place at risk Australia's international reputation as an investment destination.

Revenue transparency

Shell's global operations generate revenue through taxes and royalties for governments around the world. In 2014, Shell paid over US\$90 billion to governments³. Our global effective tax rate over the past year was 48% and averaged around 50% over the last three years.

Since 2011 we have voluntarily published details of payments made to governments in some of the main countries where we operate. A link to Shell's Sustainability Report where details of these payments made to governments globally are published [online](#)⁴.

Shell is also involved in other transparency initiatives including the:

- Extractive Industries Transparency Initiative;
- UK implementation of EU Revenue Transparency rules; and
- Voluntary reporting of our significant subsidiaries.

A summary of Shell's involvement in these initiatives is provided as Appendix 1.

Co-operative compliance

Internationally, Shell supports developing co-operative compliance relationships with tax authorities on the basis of the framework proposed by the OECD. Senior Shell representatives are actively involved with various OECD forums and with revenue authorities around the world. We have a co-operative compliance relationship in place in several countries.

In Australia, we have an open and collaborative relationship with the Australian Taxation Office (**ATO**). Shell Australia is working with the ATO to develop a constructive and transparent co-operative compliance framework. Key components include a clear framework for engagements, mutual commitment to working effectively and constructively to resolve areas of disagreement and earlier resolution of outstanding tax issues with less extensive reviews. This leads to lower compliance costs with more efficiency and effectiveness for both Shell and the ATO.

3. Committee questions – Shell Australia's relationship between Australian operations and associated operations in foreign jurisdictions

The committee has asked Shell to comment on the relationship between Shell's Australian operations and associated operations in foreign jurisdictions, particularly Singapore. In particular, we have been asked to provide information on:

- (a) How Shell in Australia is related to any operations in foreign jurisdictions, either directly or through a parent company;
- (b) How many subsidiaries either Shell Australia or its parent company has that are related to Australian operations, and where those subsidiaries are located; and
- (c) The value of transfers between those related operations for each year over five years by jurisdiction, and an explanation of the flows of money between these subsidiaries and the Australian operations.

The main holding company in Australia is Shell Energy Holdings Australia Limited (**SEHAL**). All subsidiaries of SEHAL are incorporated in and carry out their operations in Australia, with the exception of Shell Australia Natural Gas Shipping Limited, which holds Shell Australia's share

³ In 2014, globally Shell paid US\$14.3 billion in corporate taxes and US\$3.9 billion in royalties. We collected US\$72.6 billion in excise duties and sales taxes on our fuel and other products on behalf of governments.

⁴ <http://www.shell.com/global/environment-society/society/business/payments-to-governments.html>.

in jointly owned foreign flagged ships servicing the North West Shelf. This company is incorporated in Bermuda, however is a resident of Australia for tax purposes and is included in SEHAL's consolidated tax group. Australian subsidiaries of SEHAL carry out various cross-border transactions with other members of the Shell global group.

Appendix 2 tables the key purchases and sales (or payments and receipts) transacted between entities currently in the Shell Australia group incorporated in Australia and overseas jurisdictions⁵ for each of the years 2010 to 2014. Notes in the table explain the flows of value between those overseas jurisdictions and the Australian operations. It does not include transactions in respect of the downstream operations that were sold last year. Attached as Appendix 3 is a list of the Shell entities operating in the foreign jurisdictions shown in the table at Appendix 2.

The key material transactions are summarised below.

Global LNG sales

Shell Australia has long term contracts in place to sell LNG to be produced from its LNG development projects to Shell's global trading business in Singapore⁶.

Since the projects which will supply LNG into the Shell portfolio are yet to commence production, deliveries have not yet taken place under these long-term arrangements and accordingly are not reflected in the transactions shown at Appendices 2 and 3.

However for the sake of completeness, the Committee may find the following information of interest:

- Shell has been in Singapore since 1891. Shell businesses in Singapore include refining, trading (crude oil, oil products and LNG), and shipping. Singapore is also the global headquarters for Shell's Integrated Gas business. These businesses employ over 3,000 people, including 60 in global and functional roles for the LNG trading business.
- The Shell group has a global trading organization and has been trading crude oil and oil products in regionally based businesses for many years, extending into LNG trading since around 2000. The trading business that transacts in the Eastern Hemisphere is Shell Eastern Trading (Pte) Ltd (**SETPL**)⁷, which was incorporated in Singapore in 1989 and commenced LNG trading in 2002.

In relation to those LNG Projects in the construction phase, we will seek to enter into Advance Pricing Arrangements (**APAs**) with the ATO to agree tax outcomes for related party and cross-border transactions. This is consistent with our cooperative approach and to create commercial and fiscal certainty. We are currently in bilateral APA discussions with the ATO and the Inland Revenue Authority of Singapore in relation to one such project where there has been substantial provision of information ahead of the project coming on stream.

Australian condensate, LNG and Liquefied Petroleum Gas (LPG) sales

⁵ The information in the table is based on the schedules submitted as part of our income tax returns. If required, we can provide further analysis at a Hearing or on request.

⁶ Contracts are between Shell Australia Pty Ltd and Shell Eastern Trading (Pte) Ltd (SETPL), a company incorporated and operating in Singapore.

⁷ SETPL and SEHAL are both indirect subsidiaries of Royal Dutch Shell plc.

Shell Australia's entitlement to condensate and LPG produced from the North West Shelf is sold to SETPL. The LNG produced from the North West Shelf is sold to a variety of customers by a single marketing entity (based in Australia) owned by each of the North West Shelf joint venture participants, with the entity selling a small number of cargoes to SETPL.

Financing

As previously stated, the oil and gas industry is characterised by capital intensive and long-term projects; alliances and joint ventures are common.

Success is dependent on industry players having the ability to access both large pools of short-term finance to fund day-to-day working capital requirements and longer term funding facilities.

Shell Australia, like other Shell operating entities around the world, relies on a combination of internally generated cash, equity and debt funding. In alignment with commercial requirements to maintain a sustainable balance sheet, the Shell Australia group operates within Australia's thin capitalization rules, with current equity funding of approximately 45 per cent.

The Shell global business model for debt financing is based on a centralised treasury and finance function that services the various operating entities. This provides centralised external borrowing (a single interface to financial markets), global cash management (optimising cash utilisation and liquidity), and centralised management of treasury risks.

During the last five years, Shell Australia has used two main financing mechanisms; equity, including redeemable preference shares, and debt. Current funding is a mix of debt, predominately from the top Dutch holding company, and equity from the UK. Interest payments in Appendix 2 reflect this debt funding.

Debt funding from the Shell finance entities is USD denominated. As Shell Australia pays and reports tax in AUD, cross-currency interest rate swaps are used to translate USD into AUD borrowing to remove the foreign exchange volatility.

Project support services

Projects and Technology is a Shell business unit that delivers services relating to major project delivery, innovation R&D, technical services, technology deployment, safety and environment performance, and contracting and procurement activities. Subject matter experts are based in the Netherlands and in satellite/network locations such as the UK and Malaysia.

During the last five years, services provided to us have mainly related to major project delivery, reservoir evaluation and technology solutions for Browse LNG, Gorgon LNG and Prelude FLNG projects.

4. Closing remarks

We trust that the comments and information provided are useful.

Yours sincerely

Andrew Smith
Shell Australia Country Chair

Appendix 1

Shell's involvement in revenue transparency initiatives

Extractive industries

Shell is a founder and board member of the Extractive Industries Transparency Initiative (**EITI**), a coalition of governments, companies and non-governmental organisations sharing common principles and the belief that high standards of transparency about government revenues can lead to more economic growth, safer investments, and better governance.

In Australia, Shell was an active participant of the Multi-Stakeholder Group (**MSG**) in the EITI Pilot in 2013-14. The MSG Report to Government has been published and we understand is still being considered by the Australian Government.

Consistent with the EITI requirements, we advocate mandatory country-by-country global reporting as most tax payments are made at the corporate level to national governments. We support unified revenue reporting rules and standards applicable to all multinationals, irrespective of their place of business. Our aim is to establish a level playing field while avoiding conflicts of laws between extraterritorial legislations and the legal frameworks of countries where Shell operates.

UK Disclosures

Shell supports predictable and stable tax regimes that incentivise long term investment. Next year, following the transposition of the 2013 EU Accounting and Transparency Directives into UK law, we will report our payments to governments pursuant to the UK's Reports on Payments to Governments Regulations 2014. This will include relevant Australian tax payments.

Subsidiaries

For transparency reasons, Shell reports all its significant subsidiaries. A list of these can be found in the "Subsidiaries" section of the Sustainability Report (see link provided in main document).

Appendix 2

Upstream purchases and sales per country and year: 2010 to 2014 calendar years (A\$ million)

The information below is consistent with the schedules lodged with our tax returns.

<i>Calendar Year</i>	<i>Related Party Country</i>	<i>Total purchases</i>	<i>Explanation</i>	<i>Total Sales</i>	<i>Explanation</i>
2010	Netherlands	475.3	Interest and project support	10.9	Cost recoveries
	Singapore	1.0	Admin and support services	711.4	NWS product sales and interest
	UK	162.7	Interest	3.4	Recharge of global costs
	Other ⁸	32.5	Minor transactions	2.3	Minor transactions
	Total	671.5	Total	728.0	
2011	Bermuda	88.7	Interest and pensions	-	
	Luxembourg	261.5	Cross currency interest rate swap cost	0.4	Recharge of global costs
	Netherlands	453.7	Interest and project support	4.0	Recharge of global costs
	Singapore	5.5	Interest and demurrage	658.5	NWS product sales and interest
	Other	35.9	Other	0.9	
Total	845.3	Total	663.8		
2012	Bermuda	175.5	Interest and pensions	-	
	Luxembourg	272.1	Cross currency interest rate swap cost	-	
	Netherlands	525.0	Project support, interest, group support services, IP fees	1.9	
	Singapore	1.6	Interest and demurrage	587.2	NWS product sales and interest
	Other	50.4	Other	0.4	
Total	1,024.6	Total	589.5		
2013	Bermuda	178.1	Interest and pensions	-	
	Luxembourg	200.7	Cross currency interest rate swap cost	-	
	Netherlands	437.7	Project support, interest, group support services, IP fees	-	
	Singapore	8.9	Interest and cost recovery for Australian based staff	611.7	NWS product sales and interest
	Other	49.2	Other	14.0	
Total	874.6	Total	625.7		
2014	Bermuda	169.3	Interest	-	
	Luxembourg	260.7	Cross currency interest rate swap cost	-	
	Netherlands	446.6	Project support, interest, group support services, IP fees	9.8	Recharge of global costs
	Singapore	9.3	Cost recovery for Australian based staff and interest	512.2	NWS product sales and interest
	Other	61.3	Other	10.9	
Total	947.2	Total	532.9		
Grand Total		4,363.2		3,139.8	

NWS: North West Shelf

⁸ "Other" includes a number of countries and refers to things such expatriate costs and pensions, interest and superannuation costs, admin and support costs, internal audit costs, project support.

Appendix 3

International related parties that transacted with Shell Australia group 2010-2014

The entities listed below correspond to the purchases and sales listed at Appendix 2.

Bermuda	Shell Holdings (Bermuda) Limited Shell Trust (Bermuda) Limited Shell Oman Trading Limited Shell Ep International Limited	Singapore	Shell Eastern Petroleum (Pte) Ltd Shell International Eastern Trading Company Ltd Shell Ep International Limited Shell Treasury Centre East (Pte) Ltd Shell Eastern LNG (Pte) Ltd
Luxembourg	Shell Treasury Luxembourg Sarl	UK	Shell International Limited Shell Aircraft Limited Shell International Trading And Shipping Company Ltd Shell U.K. Exploration & Production Ltd Shell International Petroleum Company Ltd Shell U.K. Oil Products Ltd Shell Response Ltd Shell Ship Management Ltd Shell Holdings (Bermuda) Limited
Netherlands	Shell Project Development Viii B.V. Stichting Shell Pensioenfonds B.V. Shell Petroleum N.V. Shell Global Solutions International B.V. Shell International Exploration And Production BV. Shell International B.V. Shell Information Technology B.V. Shell Gas & Power Developments B.V. Shell Ep Wells Equipment B.V. Nederlandse Aardolie Maatschappij B.V. Shell People Services B.V		