Submission

OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE AMENDMENT (BENEFIT TO AUSTRALIA) BILL 2020

BACKGROUND

That Australian liquified natural gas (LNG) is being sold on international markets for prices less than the domestic price is symptomatic of national policy failure. To put it colloquially, Australians are being dudded in a big way in the exploitation of their natural resources by foreign and national gas businesses. In 2020/21 a total of 80.9 million tonnes of LNG were exported under arrangements pathological to Australia's interests. Stewardship of our LNG and petroleum resources has floundered.

It is arguable that this failure commences with offshore leases being granted to tenants under unduly generous terms. It is understood that lease exploration and exploitation involve significant costs, but as the rewards can be significant, there is no excuse for a company to take out a lease to sit on it for a protracted period simply to exclude competitors.

It is apparent that the Objects Clause of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* requires amendment.

CONSIDERATIONS

Shortcomings mentioned above imply breaches of Australians' human rights to a fair return on the exploitation of their natural resources. Poor quality leases to petroleum and gas operating companies clearly show that successive governments have failed their brief as landlord-in-chief for all Australians.

A fundamental anomaly

In leases of any going concern, it is the commercial practice for the rental to be assessed on the basis of a 50/50 split of net maintainable earnings before income tax, depreciation and amortisation. The landlord receives his/her rent EBITDA; the tenant his/her profit after EBITDA.

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On this principle Australians are clearly **not** receiving their proper return on the commercial exploitation of their gas (and petroleum reserves in which there is a relationship). The rental so established would, of course, be reduced by any royalties paid. This principle allows the significant costs of developing gas reserves held under leases to be recovered before the business becomes profitable. The arrangement is equitable between parties.

Objections?

To hold that that the normal 50/50 EBITDA lease arrangement of a going concern is unsuitable for the rental of operators' gas leases raises three immediate questions:

1) Exactly how large does a business have to become as to be set free from the usual commercial practice in respect of any other going concern?

2) For what reason is this, other than unfair treatment of the government and people of Australia as stewards of their own natural resources?

3) Does not a *lesser* rental adversely affect the human rights of all Australians?

CONCLUSION

Prosper Australia considers the Objects of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* should be broadened to include a public interest requirement, and subsequently endorse the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Benefit to Australia) Bill 2020*. We believe the Bill should go further and incorporate the following amendments:

A. The proper 50/50 rental provision of audited accounts as described above.

B. (i) That short-term gas leases only be granted to lessees, and that the leases shall expire if exploitation is not undertaken within the fixed term of the lease.

(ii) That longer term leases be granted once a company has commenced its commercial exploitation of the lease.

These amendments would make the Bill compatible with human rights.

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