

Summary of key recommendations

Actioning these recommendations in the 2021-22 Federal Budget will contribute to the next phase of the Australian **Government's Economic Recovery Plan. Designed** to create more jobs and secure Australia's future, they will ensure the government locks in the next wave of global investment for Australians.

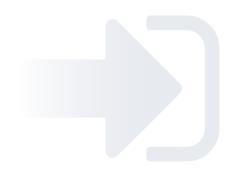
Recommendations that promote long-term jobs and investment

- 1 Encourage employment and job creation by ensuring it is clear salary and wage costs are immediately deductible for all industries, thereby removing ambiguity for capital-intensive industries like infrastructure, mining, utilities distribution and transmission, agriculture, construction and oil and gas.
- Promote investment through the introduction of investment allowance(s) to provide positive signals and encourage investment, increase employment opportunities, promote domestic spending by lowering the overall cost of projects.

Recommendations that promote the efficient use of infrastructure

- **3** Remove barriers to business project restructuring by reforming the rules around transactions involving swaps of permits and existing infrastructure in Australia, making them tax neutral.
- Improve investment and supply certainty by amending the Petroleum Resource Rent Tax Assessment Act 1987 to link a petroleum project to a production licence where a production licence may revert to a retention lease.
- 5 Increase investment certainty and maximise the efficient use of infrastructure by closing out the PRRT Gas Transfer Pricing Review without change.

Contents



Introduction Good policy will unlock sustained investment, jobs and growth		3
1	ng-term jobs and investment Ensure clarity that salary and wage costs are immediately deductible for corporate	5
2	Introduce investment allowances to improve Australia's investment attractiveness	5 6
	ecommendations to promote the ficient use of infrastructure	8
3	Remove barriers to business project restructuring	8
4	Amend the PRRT to reflect current commercial practices	9
5	Close out the PRRT Gas Transfer Pricing Review without amendment	9

Other opportunities to support investment				
certainty and jobs	10			
Conclusion Appendix 1: Economic contribution — more than just tax payments				
		Contribution to government revenues	12	
National Economic Benefits	13			
Contribution to domestic energy consumption	14			

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Introduction



The Australian Petroleum Production & Exploration Association (APPEA) is the peak national body representing upstream oil and gas explorers and producers active in Australia. APPEA's member companies account for more than 90 per cent of Australia's petroleum production.

Australia is the leading producer of oil and natural gas and has an abundance of reserves which will last for many years to come. It is the development of these reserves and basins that will deliver the reliable supply of energy that is essential to the economic prosperity of Australia.

The 2020-21 Federal Budget introduced short-term measures designed to have an immediate impact (e.g. Temporary Full Expensing, Loss Carry Back) and provide the shot in the arm needed to kick-start Australia's economic recovery. Thanks to the government's early and decisive actions to stimulate the economy, the Australian economy has quickly pulled itself out of its first recession in 30 years. The opportunity through the 2021–22 Federal Budget is to ensure that long-term economic growth and job creation can occur through measures that target long-term business investment.

While there is an understandable focus on households to drive recovery from the current downturn, the reality is that households will not spend without secure, well-paying jobs. These jobs will be delivered because of substantial investment in capital-intensive projects such as infrastructure and resources. Capital-intensive projects can take upwards of six years to complete once an investment decision is taken, while the job creation arising starts almost immediately from the time investment decisions were taken.

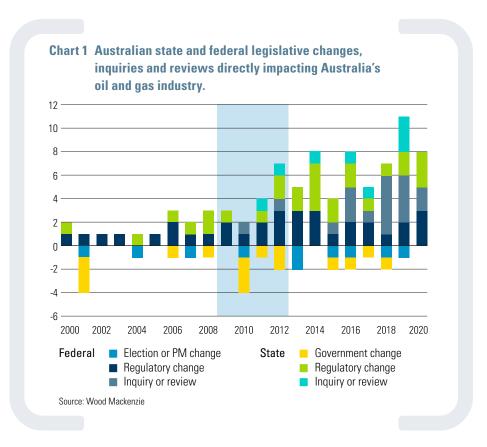
It is this type of investment that will stimulate local economies, create new employment opportunities, and generate long-term government revenue for decades to come. The following recommendations which can be actioned in the 2021–22 Federal Budget, will go some way to achieving this goal and ultimately help secure the next wave of global investment without compromising government revenues and the integrity and the underlying principles of Australia's taxation regimes:

- 1 Encourage employment and job creation by ensuring it is clear salary and wage costs are immediately deductible for all industries, thereby removing ambiguity for capital-intensive industries like infrastructure, mining, utilities distribution and transmission, agriculture, construction and oil and gas.
- 2 Promote investment through the introduction of investment allowance(s) to provide positive signals and encourage investment, increase employment opportunities, promote domestic spending by lowering the overall cost of projects.
- 3 Remove barriers to business project restructuring by reforming the rules around transactions involving swaps of permits and existing infrastructure in Australia, making them tax neutral.
- 4 Improve investment and supply certainty by amending the *Petroleum Resource Rent Tax* (PRRT) Assessment Act 1987 to link a petroleum project to a production licence where a production licence may revert to a retention lease.
- 5 Increase investment certainty and maximise the efficient use of infrastructure by closing out the PRRT Gas Transfer Pricing Review without change.

The industry takes its long-term responsibility to continue to power Australian homes, businesses, hospitals, schools, and other industries very seriously. Its contribution has already been significant (see Appendix 1) and with the right policy settings in place, the Australian oil and gas industry can continue to grow and be an important pillar of the Australian economy. APPEA looks forward to working with the government to secure regulatory and commercial conditions that enable this to occur.

Good policy will unlock sustained investment.

The 2021-22 Federal Budget is an opportunity to build on the Australian economy's recovery and set the country up for a further period of sustained economic growth. Measures designed to attract and secure the business investment needed will help deliver that sustained growth.



The benefit to the economy of well-structured and stable regulatory and fiscal regimes is well known. Over the past decade more than \$450 billion has been invested in Australian oil and gas projects, supporting around 80,000 jobs, and raising more than \$66.2 billion in taxation and resource rent payments. These payments have helped fund essential services and projects and have happened in large part because of a stable investment environment. A study by Wood Mackenzie¹ examined the decade leading up to this significant investment and identified that the investment was the result of attractive, stable, and predictable regulatory and fiscal regimes.

This investment has already delivered and will continue to deliver direct and indirect benefits in the form of long-term tax payments to governments, increased local employment, supply chain growth through the reliance on local communities to service works, industrial activity to service construction, infrastructure build out, education and upskilling of workers.

Wood Mackenzie (2020), Australia Oil & Gas Industry Outlook Report, https://appea.com.au/wp-content/uploads/2020/06/Australia-Oil-and-Gas-Industry-Outlook-Report.pdf.

Good policy will unlock sustained investment, jobs and growth

However, since 2010 there has been a high degree of fiscal and regulatory instability and intervention. This, in addition to Australia being a relatively high-cost destination for doing business, has diminished the attractiveness of Australia as an investment destination. From 2005 to 2019, Australia fell from 5th place to 18th place in World Bank's global Ease of Doing Business index². The slip in Australia's competitiveness rankings is indicative of wider policy inefficiencies which are contributing to missed growth opportunities, ceding investment to other countries which present more attractive investment environments. This has impacted investment decisions and reduced the investment appetite of many industries, not just the oil and gas industry.

As the global economy begins to turn toward recovery, the global competition for investment attraction will intensify. That is why the 2021–22 Federal Budget is so important for Australia. The introduction of measures designed to attract and secure the long-term business investment are proven to stimulate local economies, create new employment opportunities, and generate long-term government revenue for decades to come.

A recent report by EY³ identified that given the right investment settings, there is an opportunity for the Australian economy to derive substantial benefits. The report identified that a strong and confident Australian oil and gas industry investing in the next wave of competitive large-scale, long-term projects; complementing the uptake of renewables; powering manufacturing; and reducing emissions both here and overseas provides the platform for success now and long into the future.

If the right investment settings are implemented and a new phase of long-term investment is triggered — what EY call a 'high growth scenario' — national economic output could be boosted by more than \$350 billion and support the creation of 220,000 jobs over the next two decades. Conversely, EY stated that if no action is taken to decrease the stifling effect of the regulatory double-handling, every \$1 billion of investment lost through regulation will result in an overall loss of \$1.79 billion to the economy.

The recommendations discussed below can be actioned in the 2021–22 Federal Budget and will go some way in achieving this high growth outcome by improving investment conditions and the efficient use of infrastructure, without compromising government revenues and the integrity of the underlying principles of Australia's various taxation regimes.

² The World Bank, Ease of Doing Business Ranking: www.doingbusiness.org/en/rankings.

EY (2020), Australia's Oil and Gas Industry: Kickstarting Recovery from COVID-19: www.appea.com.au/wp-content/ uploads/2020/11/EY-Report-Australias-oil-and-gas-industry-Kickstarting-recovery-from-COVID-19.pdf.

commendations the omote long-term id nd investmer

The government's Economic Recovery Plan has been designed to create more jobs and employment opportunities in a manner that secures Australia's future.

Ensuring salary and wages are immediately deductible for corporate income tax purposes and introducing further investment allowances as part of the 2021–22 Federal Budget will provide an environment that incentivises investment, job creation and ultimately, encourage domestic spending. These recommendations can stimulate growth in capital availability, wages, and GDP in the same way as a company tax cut, while also raising national income.

1 Ensure clarity that salary and wage costs are immediately deductible for corporate income tax

Legislating the immediate tax deductibility for **all** salary and wage costs will significantly simplify company compliance obligations and improve Australia's ability to attract investment capital.

Salary and wages costs represent a significant proportion of costs for capital-intensive industries like Australia's oil and gas, infrastructure, mining, utilities distribution and transmission, agriculture, and construction industries. These industries will play a significant role in Australia's economic recovery out of the COVID-19 pandemic.

For many businesses, salary and wages costs are immediately deductible as they are incurred as part of conducting business activities. However, for capital-intensive industries, the Australian Taxation Office (ATO) have a view which requires that salary and wages costs are capitalised into the cost of an asset. This increases the effective cost of employment.

Making an assessment on the tax deductibility of salary and wage costs to a capital-intensive industry or project is not an easy task and the matter is not settled in so far as it applies to infrastructure, construction, and the development of assets, all of which will underpin Australia's economic recovery. This difficulty has been recognised on numerous occasions and invariably through the court system.

Compliance is dependent on how the facts and circumstances are interpreted by the ATO—there is no bright line test, and administrative interpretation can be subject to changing focus over time. This highlights the often impractical, time-consuming, and overly complex compliance burden placed on companies to substantiate positions and often, the compliance burden is not predicated on whether the classification made is immaterial or non-existent in the overall economic outcome. As there is no bright line test, the matter is often subject to long-running disputes with the ATO that are costly to resolve, sometimes without providing any clarity on approach for other taxpayers to follow.

Capitalising salary and wage costs increases the effective cost of employment without any increase in employment numbers. The increase of effective cost of employment filters into the overall project economics, which, in most capital-intensive industries is based off net present value and internal rates of return. Deferring the deduction for a period of 15 years, sometimes over the life of the project (often up to 40 years), decreases the net present value and internal rate of return. These both make Australian projects less competitive as they seek capital for development.

The capitalisation of salary and wage costs also inhibits the ability of companies to employ additional workers. It acts as a disincentive to investment, development and ultimately, the creation of jobs in a time of need. In the event project costs need reducing, it may also result in a change of location for certain roles that would otherwise be undertaken in Australia reducing the overall benefit of projects that do get sanctioned to the country.

Recommendations that promote long-term jobs and investment



The introduction of an investment allowance will provide an environment that incentivises investment and encourages domestic spending. It can stimulate growth in capital availability, wages, and GDP in the same way as a company tax cut, while also raising national income. They are proven to attract the investment capital needed to ensure that the government's next phase of its economic recovery plan can be achieved.

Investment allowances provide positive signals and encourage investment, promote domestic spending, and increase employment opportunities. They have the benefit of attaching only to new capital spend, thereby removing from the 'fairness equation', a perception that owners of capital previously expended within the country obtain improved project returns for past, as opposed to new, investment decisions.

Whilst on the surface investment allowances would result in a mere timing difference, the timing benefit helps improve the project economics for long life, capital-intensive projects where significant expenditure occurs before a revenue stream is available. It means that the value of the asset and depreciation amounts are less impacted by the time value of money, improving net present values and internal rates of return. The absence of attractive investment allowances can act as a significant disincentive to investment and development decisions in very long construction projects like LNG facilities.

Some options that can be considered as part of the 2021–22 Federal Budget are outlined below:

a Introduce a broad-based investment allowance

Introduce a broad-based investment allowance applicable to all capital expenditure incurred between budget night and 30 June 2025. Options include:

- a one-off allowance in the first year that depreciation commences (say 20 per cent) without altering tax depreciation schedules or effective lives, or
- Allow a gross up (say 20 per cent) of the asset's value such that a company can depreciate 120 per cent of the asset value over its useful life.

b Shorten the effective lives of assets

Consideration should be given to shortening the effective life of infrastructure, construction, and development assets by five years (e.g. from 15 years to 10 years). Whilst this seeks to adjust the rate that assets decline in value, the shortening of effective asset life means the impact of the 'time value of money principle' does not adversely impact companies. This will improve the project net present values and internal rates of return that will help to make the Australian projects more competitive for capital, as well as reducing the economic disincentive to investment, development and ultimately, the creation of jobs.

Recommendations that promote long-term jobs and investment



Bring forward the time depreciation commences

Introducing a notional work in progress (WIP) category for capital assets written down over 20 years would support this approach. That is, allowing a deduction on capital expenditure before an asset is installed and ready for use (i.e. the current test). Once the asset is completed, the balance can then be allocated to the asset with the statutory effective life applying from the time at which the asset is installed and ready for use.

This is consistent with other jurisdictions that provide similar depreciating deductions based on the date expenditure is incurred.

Alternatively, an approach used in Canada is to allow the pooling of expenditure rather than allocating to individual assets. Depreciation deductions would commence from the date expenditure is incurred. This could be on an 'opt-in' basis and would deliver significant administrative savings to taxpayers.

Expand the scope and application of the temporary full expensing measure

Consideration should be given to expanding the scope of the temporary full expensing measure by broadening its access and extending the sunsetting date until 30 June 2025 for certain types of contractual commitments made as part of final investment decisions which occur by 31 December 2021.

Broadening access and extending the sunset are the preferred approaches, but as an alternative government could also consider targeted expensing measures for particular asset classes (e.g. assets involved in or connected with energy generation).

ecommendations to note the efficient use of infrastructure

Australia has significant oil and gas infrastructure that is ready to develop the abundant resources yet to be developed.

By removing barriers to business project restructuring, amending the PRRT legislation to keep pace with current commercial practices and closing out the PRRT Gas Transfer Pricing Review without change will maximise the use of infrastructure that would otherwise be decommissioned or have a risk of being stranded without reaching its maximum capacity. It would also promote further investment which supports the government's Economic Recovery Plan by creating more jobs and employment opportunities in a manner that secures Australia's future through the development of resource basins.

3 Remove barriers to business project restructuring

To support increased gas supply and the development of discovered (but previously not developed) gas resources, it is recommended the government implement reforms to make transaction involving swaps of permits and existing infrastructure in Australia tax neutral. This proposal could also allow the pooling or potential combination of singular uneconomic resource by allowing for restructuring into an economic resource project that improves economic viability.

Any cash component of a transaction (such as where differences in the values of permits or infrastructure exchanged are not the same) should still be subject to tax as per current law where it not reinvested in similar assets or new infrastructure within the same tax year.

The objective of any business project must be to maximise the value of the investment made in infrastructure necessary to support the supply of goods/products. There may however be significant challenges in aligning the operational and commercial interests of project participants, including significant taxation impacts (e.g. where companies wish to swap their interests in a permit in exchange for an interest in a separate permit or infrastructure, parties are subject to potentially significant tax liabilities despite no immediate economic gain being generated).

A 'like for like asset' exchange rollover could achieve this outcome and would be comparable to existing laws in the US and the UK. Rollover relief in these situations should not pose significant revenue concerns as there are no upfront deductions being claimed to reduce other taxable profits of the purchaser, and there is no forgone tax revenue as the transaction is unlikely to otherwise proceed. The tax liability on the transaction itself is only deferred, not removed. An important point here is that a new revenue stream for Government may be unlocked, either via project income itself or by way of the potential jobs the project may generate.

It is also important to note that given Australia's vast size, remote terrain, and distance from markets (both domestic and export), many permit areas which contain discovered resources cannot individually underpin the infrastructure required to undertake high-cost exploration and/or development activities. Government should consider facilitating access to multi-user infrastructure to better connect otherwise stranded resources to markets. In turn, the industry needs to identify options where existing infrastructure can be jointly utilised to reduce costs and open new opportunities.

Recommendations to promote the efficient use of infrastructure



Whilst the principles of the PRRT remain the right fit for oil and gas operations in Australia, an amendment is required to the PRRT Act to link a petroleum project to a production licence where a production licence may revert to a retention lease. This can be achieved by:

- specific inclusion of reversion scenarios into the operation of sections 4 and 5 of the PRRT Act, or
- amendment of section 20 of the PRRT Act to link interests through the project combination.

In commercial practice a petroleum project can go from having a retention lease to a production licence back to a retention lease, yet the legislation does not contemplate this.

This deficiency was acknowledged in the Callaghan Review. It creates fiscal uncertainty and prevents a company's ability to make investment decisions based on economics and value and which reflect commercial practice. The result is that companies are unable to make investment decisions to bring new gas to market due to the fiscal uncertainty that this brings. It is especially problematic for smaller domestic companies who are planning on making significant investments of their scarce capital.

The inability to access deductible expenses has the potential to render additional further investment subeconomic, leading to a premature closing down of a project or stranding assets. The proposed legislative amendment can unlock more investment and supply, particularly to the east coast gas markets. It requires a simple and efficient legislative amendment.

5 Close out the PRRT Gas Transfer Pricing Review without amendment

Fiscal certainty is critical for future investment confidence and jobs, so consideration should be given to confirming this review has been closed out without any amendments to the PRRT legislation.

Announced as part of the Callaghan Review into the design of the PRRT, the completion of the review into the gas transfer pricing rules has been ongoing since April 2019. Extensive consultation and multiple submissions have highlighted the that the design of the PRRT gas transfer pricing regime was purpose-built for Australia's oil and gas industry and appropriately reflects the integrated nature of projects in Australia.

The ongoing uncertainty with the review's potential outcomes and how they apply to existing and potential projects is not beneficial at a time where certainty is needed to promote investment. The Australian economy needs to create jobs, and the industry is looking to make investment decisions associated with the next wave of gas investment in Australia. Certainty for investors is needed, especially as competitors in the United States and Russia, as well as emerging locations such Cameroon, Mozambique, Qatar, and Nigeria, have settings that make them well placed to attract capital and investment.



Other opportunities to support investment certainty and jobs

Whilst the focus should be on a budget that delivers long-term business investment, employment opportunities and spending that ensures Australia's economic prosperity, it remains critically important that the government continue its focus on its deregulation agenda.

The importance of good regulations and the formulation of good balanced policy was again addressed by the Hon. Ben Morton in his address to the Business Council on 2 October 2020 where it was highlighted that:4

- 'Good regulation is critical to making Australia one of the best countries in the world to live, and ensuring Australia has a well-functioning economy, society, environment and democracy.'
- Poor regulation is a 'job-killer' that has no redeeming features. It inhibits consumer choice, business innovation and investment, and jobs growth.
- Poor regulation, regulation that is unnecessary, poorly designed or implemented imposes costs more than any benefits, inhibits business investment and the creation of jobs, and is a brake on productivity, undermining the prosperity of Australia.

The current consultation on the Environment Protection and Biodiversity Act 1999 (EPBC Act) is one area that would benefit from regulatory streamlining while maintaining and enhancing environmental outcomes. The recent EY report found overlapping state and federal regulations within the EPBC Act⁵ (e.g. overlapping regulations are presenting an unnecessary cost and time hindrance to project approvals and could be significantly streamlined. Likewise, the rigidity of current approvals processes is also burdensome, and does not take the diversity of projects into adequate consideration, applying an impractical 'one-size-fits-all' approach.

Similarly, as the government undertakes consultation in developing a framework for offshore decommissioning, it is important that a whole-of-government approach is taken to ensure good policy and regulations are developed. It is possible to ensure the framework will help Australia remains globally competitive, whilst making sure the environment is appropriately protected and that the maximum value can be extracted from the current assets.

APPEA is working collaboratively with the government to ensure that significant advances can be made.

⁴ See https://ministers.pmc.gov.au/morton/2020/morrison-governments-deregulation-agenda

EY (2020), Australia's Oil and Gas Industry: Kickstarting Recovery from COVID-19, pp. 27-29: www.appea.com.au/ wp-content/uploads/2020/11/EY-Report-Australias-oil-and-gas-industry-Kickstarting-recovery-from-COVID-19.pdf

Conclusion



Thanks to the government's early and decisive action to stimulate the economy, the Australian economy has quickly pulled itself out of its first recession in 30 years.

Measures introduced throughout 2020 and as part of the 2020–21 Federal Budget that were designed to have an immediate impact have clearly worked.

The Australian oil and gas industry is ready and committed to supporting the next phase of the government's economic recovery plan. There is an opportunity to secure a high growth scenario that could see the economy boosted by \$350 billion and supporting the creation of 220,000 jobs over the next two decades if the right investment settings are in place. The recommendations put forward by APPEA will support a positive investment environment ensuring that the next phase of long-term investment is triggered.

The 2021–22 Federal Budget provides an opportunity for the government target the long-term business investment that will ensure long-term job creation and economic growth. A strong economy is vital to helping improve outcomes for all Australians and so we look forward to working collaboratively with governments to help deliver this, without compromising government revenues and the integrity of Australia's taxation regime.

Appendix 1:

Economic contribution more than just tax payments

The Australian oil and gas industry has made a significant contribution to the Australian economy since the middle of the 19th century and continues to do so. An examination of the contribution made should not be limited to tax payments made to governments.

There are the 80,000 jobs the industry supports directly and indirectly, the supply of reliable energy to Australia and its major trading partners and development of regional Australia including the provision of infrastructure and other initiatives. In total, this represents a significant contribution to the Australian economy.

Contribution to government revenues

APPEA's 2018–19 Financial Survey⁶ highlights the significant contribution made by Australia's oil and gas industry over the last financial year, with direct tax payments amounting to \$5.85 billion. This represents a year-over-year (YoY) increase over 2017–18's figures (\$5.75 billion).

It is worth noting that desktop comparisons of the industry's tax contribution, especially those that compare tax paid to total revenue, can ignore various complexities associated with how tax is calculated for large corporate sectors including oil and gas.

income tax is not the only way the industry gives back to the economy and the Australian community. As a large corporate sector, oil and gas is subject to complex tax laws on the state, territory, and federal level — several of which are levied prior to income tax calculation — in addition to a myriad of royalties, excises, and other government payments. Over the last decade, the Australian oil and gas industry has paid a combined \$66.2 billion in taxes, rents, and royalties to governments at both a national and state and territory level.

A direct comparison between total revenue and corporate income tax disregards the costs, and ultimately profits, that determine the overall income tax position. Large, long-life, complex projects such as offshore gas installations bear significant up-front capital investment before profits are made. They therefore carry significant forward tax losses, for investment in exploration, construction and development, and financing costs, which incorporate no offsetting income during these early stages of development.

The PRRT, which relates to profits on the sale of petroleum goods, is not applicable to projects until all eligible outlays have been recovered, including threshold rate of return. This means that projects tend to not pay PRRT for a period of up to several years after production has commenced.

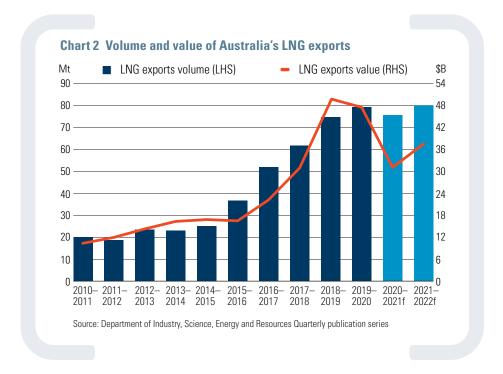
It is important to remember that the fiscal contributions do not include the indirect payments to state and territory governments such as the Goods and Services Tax (GST) payable on goods and services used, payroll taxes or amounts withheld under the Pay as you go (PAYG) Withholding Regime.

⁶ APPEA Financial Survey 2018-19: www.appea.com.au/wp-content/uploads/2019/12/Media-release-Survey-showsindustry-supporting-Australias-economy.pdf.

National economic benefits

Australia's oil and gas industry supports 80,000 jobs directly and indirectly in Australia and hundreds of thousands more in the manufacturing industry. The average wages in Australia's oil and gas industry are more than the double the average wage for all industries in Australia. The industry invests significantly in regional areas and in communities where it operates. The industry has invested more than \$350 billion over the last decade in Australia. This investment will lead to ongoing jobs and revenue for the governments for many decades to come.

According to the Department of Industry, Science, Energy and Resources, liquefied natural gas (LNG) is Australia's second largest export commodity after iron ore, with export revenue of \$31 billion forecast for 2020–21.7 This is a significant reduction from \$48 billion in 2019–20 and reflects the challenge posed on the industry due to COVID-19. The export revenue is forecast to rebound to \$37 billion in 2021-22 as prices normalise and demand returns to pre-pandemic levels.



Department of Industry, Science, Energy and Resources, Resources and Energy Quarterly, December 2020, p. 79: https://publications.industry.gov.au/publications/resourcesandenergyquarterlydecember2020/documents/ Resources-and-Energy-Quarterly-Dec-2020.pdf.

Contribution to domestic energy consumption



In Australia, oil and gas are the largest and third largest fuel sources of energy consumption, together accounting for 65 per cent of energy consumption in 2018-19 (oil - 39 per cent, gas -26 per cent).8

Natural gas is both a source of energy and an essential raw material for the manufacturing of everyday products like glass, ceramics, bricks, cement, plastic packaging for food and beverages, fertilisers, antifreeze, metals like aluminium, copper, zinc, tin and in processes of food preparation, fermentation and brewing. In most cases, there is no substitute for gas.

Natural gas is also a critical fuel for electricity generation in Australia. Gas currently accounts for 21 per cent of electricity generation in Australia.

The outlook for the Australian oil and gas sector is one with significant opportunities as well as significant challenges. Looking forward to 2021 and beyond, Australia faces intense competition from established and emerging low-cost producers in the global market, particularly the United States and Qatar both of whom are expected to grow their LNG exports capacity.

⁸ Department of Industry, Science, Energy and Resources, Australian Energy Update 2020, September 2019, Table C: www.energy.gov.au/publications/australian-energy-update-2020.



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