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Hydrogen Production Tax Incentive Consultation paper submission

Edify Energy Pty Ltd (Edify) thanks the Commonwealth Government for the opportunity to provide this submission to Treasury regarding the Hydrogen Production Tax Incentive (HPTI). Edify enthusiastically supports the Government's HPTI and its firm commitment to securing Australia's renewable future.

About Edify

Edify is a proudly 100% Australian owned renewable energy and storage company with our head office located in Manly, New South Wales. As a small/medium enterprise, Edify has consistently punched above its weight and has successfully overseen the development, structuring, financing and delivery of more than 1GW of renewable energy projects. These projects include 773 MWp of utility scale solar projects, 4 utility scale lithium-ion energy storage systems totalling 360MW / 720MWh, and 75MVA of synchronous condensers. These projects produce enough electricity to power over 280,000 Australian homes.

Edify and Hydrogen

Edify will deliver its investment ready 17.6 MW green hydrogen production facility powered by integrated renewable energy generation. The facility (with development approval for expansion to 1 GW of electrolyser capacity), together with its domestic and export demand and industry partners, will unlock the unique potential of Townsville as a major hydrogen hub, harnessing abundant renewable energy resources, leveraging existing rail, road, water and port infrastructure, supporting new industry and infrastructure, creating local jobs, attracting investment and boosting the economy.

Edify's lead of the Townsville Green Hydrogen Hub has attracted:

- $48.2 million funding from the Department of Climate Change, Energy, the Environment and Water (DCCEEW) under the Regional Hydrogen Hubs program for the Townsville region[1]; and
- $47 million in cross-border investment through the German and Australian Governments' HyGATE program, with funding of €16.4 million from the German government and $20.7 million from ARENA[2].

[1] https://edifyenergy.com/green-hydrogen/edify-energy-secures-48m-federal-government-funding-for-townsville-green-hydrogen-hub/ and https://www.dcceew.gov.au/about/news/hydrogen-hub-townsville
[2] https://edifyenergy.com/green-hydrogen/hygate-green-hydrogen-funding/ and https://arena.gov.au/news/recipients-announced-for-australia-germany-hygate-initiative/

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Consultation Feedback

Community impact
Edify is excited to be playing a role in Australia's transition to renewable energy. We are supportive of the Commonwealth Government's Future Made in Australia policy. We are hopeful that the HPTI will contribute towards the goals listed below.

- Develop highly valuable knowledge and capabilities across Australia, and in particular in the Townsville community.
- Provide significant opportunities for local businesses in the Townsville region to engage with and benefit from the project, whether as customers or suppliers/service providers.
- Improve the business case for the renewable energy needed to power the green hydrogen production facilities.
- Safeguard Australia's status as a global energy exporter as Australia and the world transitions to a zero emissions future.
- Firmly position Australia as a global leader in the transition to net zero.

We are confident that the HPTI will make a positive impact to Australian communities, the Australian economy and the Australian renewable energy and green fuels industries.

Incentive amount
The $2/kg should be in real 2024 money, i.e. inflation/CPI linked from 2024. This will reduce investor uncertainty and support the delivery of investment sought as part of the Future Made in Australia policy. Generally, the vast majority, if not all, of a project's costs are inflation linked.

Tailoring the eligibility criteria for common project structures
It appears that Treasury is limiting accessibility to the HPTI to corporations that are subject to Australian income tax throughout the relevant income year.

Through our experience in hydrogen and other energy generation and storage projects, a range of vehicles other than corporations (specifically, Australian resident unit trusts and partnerships) should be considered hydrogen projects. The use of these entities provides increased flexibility to bring in other third-party investors, permits favourable financing terms and has a material impact on the commerciality and feasibility of a project. Failing to permit unit trusts or partnerships to access the HPTI may materially reduce the commercial viability of green hydrogen projects.

The HPTI is intended to be cash settleable in all circumstances. Therefore, it is not necessary that the entity claiming the HPTI be a tax-paying entity.

Instead, Edify suggests that the HPTI should be available to the following entities:
- company (including a tax consolidated group where the facility is held by a subsidiary member);
- unit trust;
- partnership.

Noting the above, the preference would be to ensure the scope for eligible facility should include project assets that are in an Australian resident unit trust, where the unit trust is either a stand-alone taxpayer or subsidiary member of a tax consolidated group or multiple entry consolidated (MEC) group.

It is also unclear whether the proposed eligibility requirements are to be assessed at a single point in time or whether each participant will need to continue to satisfy the eligibility requirements on an ongoing basis to maintain its eligibility for the HPTI. This should be clarified.

Defining Financial Investment Decision (FID)

Given the fundamental importance of the concept of FID to HPTI eligibility, we are of the view that the concept will need to be clearly defined in the incentive framework. Typically, we would expect FID to include the following concepts that confirm the unconditional complete funding for the project together with unconditional construction contracts, and were applicable grid connection arrangements:

- Confirmation of the availability and commitment of funding to the project e.g. equity investors, debt financiers etc;
- Executed, binding and irrevocable notice to proceed being issued to a suitable collection of contractor(s) and/or supplier(s) (e.g. EPC Contractor under a turnkey arrangement, or balance of plant contractor and electrolyser supplier); and
- For grid connected projects, regulatory approval has been received by AEMO and grid connection agreements entered into with the relevant Network Service Provider

To achieve the aims of the program, we also support the scheme being open to all projects achieving FID on or before 30 June 2030.

Project timelines

We are anticipating a two-year period between FID and the Commercial Operation Date (COD) for our first 17.6MW facility. While larger facilities are likely to require longer construction periods, careful sequencing of parallel workstreams means this would not necessarily scale linearly with production capacity. We anticipate that larger projects will require no more than three years between FID and COD.

Emissions intensity

We support the proposed emissions intensity threshold of 0.6kg of carbon dioxide equivalent per kg of hydrogen. We propose clarifying that the scope of emission intensity to include only Scope 1 and Scope 2 emissions (i.e. limited to the process of producing hydrogen and the energy involved to do so).

Minimum capacity requirement

We support the minimum capacity requirement of 10MW electrolyser nameplate capacity and see this as a sensible minimum value for the scheme. We consider a production facility's electrolyser size to be a simple and clear reference point for confirming its minimum capacity for the purposes of satisfying this eligibility requirement.

Handling various electrical grids
We understand that the Government is contemplating requires that electrolyser projects should be connected to the same electricity grid as the project's electricity source to access the HPTI.

The alternative view is that the location of a renewable energy source has no impact on the legitimacy of a hydrogen producer's green credentials, so long as suitable safeguards are in place to ensure the integrity of such arrangements. The Guarantee of Origin scheme will provide the requisite safeguards. This is a similar approach to the creation and surrender of large-scale generation certificates (LGCs) which has been in place for renewable energy generation for many years in Australia.

Ultimately, this will allow the most efficient deployment of both hydrogen production capacity and renewable energy generation capacity in the most suitable locations for each.

Time matching and additionality
We agree with the Government's proposed approach with respect to both time matching and additionality.

Administrative approach
The consultation paper indicates that entities may be able to adjust their pay as you go (PAYG) instalment rate based on the expected credit under the existing framework where they are in a tax payable position. It is possible that entities may be in a tax loss position, particularly in the initial start-up phase of the project and therefore will not realise an immediate benefit until tax losses have been recovered.

Further, requesting a reduction in the PAYG instalment rate (based on expected business and investment income for a period) is an imprecise and impractical method for entities to determine the amount of the HPTI credit available. Relying on a PAYG instalment variation to receive the HPTI, therefore, reduces investor certainty over the timing of receipt of the HPTI. This, in turn, may increase the cost of equity and debt finance for project proponents.

Instead, entities should be able to self-disclose hydrogen production (to the production gate) in a period within the Business Activity Statement ("BAS"), under a new separate section with bespoke reporting labels. Cash settleable refunds of the HPTI credit should then be included within the calculation of net 'amounts the ATO owes you'. This facilitates the receipt of the HPTI alongside the payment or receipt of other net amounts for that reporting period (i.e. 21 days after lodgement of the BAS for monthly lodgements, or 28 days after lodgement for quarterly lodgements), providing greater certainty on cash flows for investors.

Community benefit principles
Given the unique needs of communities across Australia, community benefit is typically best approached through development approvals and proactive community engagement by project proponents. Given that the HPTI will be established at a national level, and each community has its own specific needs, we recommend that eligibility requirements relating to the community benefit principles are broadly drafted so as to allow them to be addressed in a variety of ways depending on the location and nature of each specific project.

There is a lot or merit in the Community Benefit Principles including projects located in Government determined green hydrogen hubs with strong community support and social licence. Those projects be best places to establish the necessary ecosystems for success, including local community (including First Nations communities) investment, domestic industry and supply chain and skills establishment, the creation of secure jobs, the promotion of diverse workforces, secure jobs and tax transparency.

Verification and transparency

We expect that the GO scheme will require a suitable degree of verification to demonstrate compliance with tax obligations.

We oppose the introduction of public reporting obligations with respect to potentially commercially sensitive information such as the value of credits received by an individual facility or entity. As such, we recommend treating reported information as confidential, similarly to other tax information provided to the ATO.

We recommend that publicly released information is aggregated by a central authority in a manner which does not identify commercially sensitive information of any recipient organisation.

Interaction with other forms of government support

We support the government's approach of separating grant funding from the HPTI and view this as sensible approach given the different nature and intent of such funding.

We acknowledge that the tax incentive will naturally impact other production-based incentives offered by Australian governments (e.g. ARENA's Hydrogen Headstart program). We note that the impact to the value of Hydrogen Headstart credits is reduced via mechanisms within the Hydrogen Headstart program rather than limiting eligibility to tax credits.

Similar to the Hydrogen Headstart program, which sets out how its support is impacted by revenue-side support, we suggest that the Government allows other funding providers to determine how the HPTI should impacts their programs.

In conclusion

Edify very much welcomes the HPTI and applauds what we expect to be a simple, transparent and efficient mechanism for supporting and accelerating green hydrogen projects.

We look forward to seeing further demand-side policies that will support industrial decarbonisation and hydrogen use cases including low-carbon liquid fuels and green metals.

We are open to discussing any aspect of this submission.

Yours faithfully,

John Cole
Chief Executive