

Mr Marty Robinson  
First Assistant Secretary  
Corporate and International Tax Division  
The Treasury  
Langton Crescent, Parkes ACT

Dear Mr Robinson,

**Investor Group on Climate Change submission on the draft legislation to strengthen the foreign resident Capital Gains Tax regime**

The Investor Group on Climate Change (IGCC) welcomes the opportunity to provide comment on the Government's draft legislation to strengthen the foreign resident capital gains tax (CGT) regime.

Our 100+ member organisations collectively manage over \$4.5 trillion in assets locally, including the retirement savings of more than 15.8 million Australians. As long-term institutional investors and asset managers, our members support a stable, fair, and predictable tax framework that underpins Australia's attractiveness as a destination for global capital.

We respect the Government's intentions to strengthen and provide clarity to the foreign resident CGT regime. However, we have several concerns with the legislation as currently drafted and strongly urge government to delay any implementation until meaningful consultation and analysis has been undertaken to design a mechanism that meets government's objectives without creating undue sovereign risk and flight of capital by patient global investors.

Our concerns and proposed solutions are outlined in detail in the attached submission.

At a high level, we ask the government:

- 1. Establish a level playing field for domestic and global investors in critical infrastructure such as renewable energy while ensuring the market continues to operate efficiently**

The government has already recognised the important role global investment plays in Australia's burgeoning renewables sector by proposing a 50% discount until 2030. We suggest analysis is done to compare the effective tax rate paid by domestic and international investors on renewables projects, to determine what a truly competitive and fair ongoing tax rate should be for international investors.

In the absence of further analysis, a CGT rate that results in a level playing field between domestic and global investors, applied in perpetuity or at least until 2050 in line with the government's climate targets, would ensure local and international capital are treated fairly when investing in renewables. Doing so would mean much-needed investment in the sector would be significantly less disrupted in the short-term than would be the case with the higher rate and future investment remains viable.

This change would not create any budgetary impacts given the discount for renewables has been assumed over the forward estimates.

**2. Avoid devaluing existing investments and creating unnecessary sovereign risk across the Australian economy by making any changes prospective only**

Stable and predictable tax settings are critical for cross-border investment and applying new rules to existing investments or deals completed up to 20 years ago undermines confidence in the integrity of the system. Such unprecedented retrospectivity will not only devalue existing projects and cause major market disruption in the short term, it will add a risk premium to investment decisions across sectors and investor groups, as the question becomes whether there is sufficient transparency and stability in Australia's tax regime. At a time when we need to bring more investment into critical infrastructure, housing and renewables, this would have the opposite effect, and the costs will be borne by households and business in the form of increased housing, energy and consumer prices, further slowing economic growth.

In their current form, the draft measures risk undermining and putting at risk billions of dollars of investment into Australian industry, particularly renewable energy, and torpedoing the orderly and efficient transition to a net zero economy. If implemented, these reforms will also increase energy costs for households and businesses and contribute to greater energy uncertainty at a time when global energy and fuel markets are in turmoil.

IGCC and our members would welcome the opportunity to engage meaningfully with government and the Treasury to design a scheme that meets the objectives of ensuring a fair rate of tax is paid by all investors, without destroying the economic fundamentals of a sector or the attractiveness of Australia as an investment destination.

If you have any questions about the matters raised in this submission, please contact Francesca Muskovic, Executive Director of Policy, at [Francesca.Muskovic@igcc.org.au](mailto:Francesca.Muskovic@igcc.org.au) or on 0413 587 898.

Sincerely,



**Rebecca Mikula-Wright**

Chief Executive Officer  
Investor Group on Climate Change

# Submission to the Treasury

## Strengthening the foreign resident CGT regime – draft legislation

**24 April 2026**

### **Introduction**

Australia needs to move away from reliance on costly fossil fuels and unreliable imported energy sources. We have an abundance of renewable energy sources, which has been highlighted dramatically in the fuel and energy crisis the war in the Middle East has created.

But the renewable energy sector isn't Australia's largest and most established, and global capital is still essential to delivering the renewable energy projects we need. To date, approximately 70% of the investment in renewables in Australia comes from offshore, primarily through other nations' pension funds and large-scale global investors and asset managers.

This investment is critical to developing projects that are needed now and in the remainder of this critical decade, in order to reach the government's own target of 82% renewables by 2030.

By the government's own estimates released this year, deployment of renewable energy generation is already well behind where it needs to be to meet the 2030, 2035 and 2050 targets. At the same time, the cost of delivering those projects – as is the case for all infrastructure and construction in Australia – is increasing significantly each year. This escalation is driven by a combination of labour and materials cost inflation, as well as continued blow outs in approvals timeframes for projects at state and Federal levels. While there are many great things about the federated system in Australia, coordination and streamlining of environmental and planning approvals processes is unfortunately an area that has seen regression, rather than improvement.

In the face of a growing gap between targets and delivery, and spiralling delivery costs, the proposal to further penalise foreign investors through higher tax rates, particularly ones that are so misaligned to the investment timeframes and processes of this asset class, will further slow delivery, reduce competition in the sector and drive consumer prices higher. The retrospective application of these measures adds a sovereign risk premium to all investments in Australia, not just renewables, which further increases prices for infrastructure, housing and energy.

The Investor Group on Climate Change (IGCC) represents 100+ member organisations who collectively manage over \$4.5 trillion in assets locally, including the retirement savings of more than 15.8 million Australians in addition to millions of New Zealanders.

As long-term institutional investors and asset managers, our members support a stable, fair, and predictable tax framework that underpins Australia's attractiveness as a destination for global capital.

The proposed legislation as currently drafted adds uncertainty, unpredictability and instability at a time we can least afford it.

## **Fair and appropriate tax treatment and transition arrangements**

IGCC respects the government's intention to strengthen the foreign investor CGT regime. We have consistently called for a level playing field between domestic and global investors to ensure much needed investment can flow into critical infrastructure to support the orderly and least-cost transition to net zero.

The proposed application of a 30% CGT rate for foreign investors is more than double that currently paid by some domestic investors in renewable energy assets, including Australian superannuation funds, and represents an instant material change to investment feasibility. At a time when costs for renewables projects are already increasing thanks to rising materials, construction and labour costs, growing delays to state and federal approvals processes, and sluggish upgrades to supporting infrastructure such as transmission lines, any additional tax impost will render many projects unfeasible.

Those projects that do continue will need to recoup higher costs through increased power prices, which will in turn be passed on to consumers and businesses. Independent analysis commissioned by the Clean Energy Investor Group in 2024 demonstrated that the reforms risk increasing retail electricity prices by an average of around four percent, or \$80 per year for the average household. Conducted prior to the release of the current draft legislation, this analysis looks at scenarios that are considerably less extreme than what the draft legislation is now proposing. Therefore, it could reasonably be assumed that the impacts of the proposed reforms would be worse on both power prices and household costs.

The unreasonably short consultation period on this draft legislation has meant this analysis could not be updated in time to inform this submission. We would urge Treasury to undertake detailed analysis that would model the impact of these proposed changes on investment into renewable energy, and the subsequent impacts on electricity prices and household bills. If such modelling already exists, then we would request it be made available to industry.

The 30% CGT rate is also uncompetitive by international standards, particularly for the types of global investors that are active in Australia's renewables sector. We note there are jurisdictions with targeted exemptions for sovereign wealth funds and pension funds, including the US and the UK, and such a model could be an alternative, but we stress that this would again require modelling and consultation beyond what could be achieved in a two-week period.

At a time when many jurisdictions are actively seeking to attract global investment into infrastructure, clean energy, and decarbonisation initiatives, an elevated CGT burden risks placing Australia at a relative disadvantage. This is particularly concerning given the scale of capital required to meet national climate and energy objectives.

According to government's own modelling, the rollout of renewable energy is already falling short of the level required to meet the government's net zero target by 2035.

A CGT rate that results in a level playing field between domestic and global investors, applied in perpetuity or at least until 2050, would allow investors to factor the additional cost in over the life of a project or the term of their investments. It would also mean fewer investors exiting the Australian renewables market, ensuring there is a secondary market for assets to allow continued investment in new development.

We note that a 30% tax rate only generates tax revenue when foreign investors invest. We would propose that consideration be given to a model that applies a flat 15% tax on income and capital, which

could be a simple way to align tax outcomes for international investors with domestic superfunds and has precedent in the MIT regime.

The proposed four-year 50% discount to the new CGT regime for renewables shows the government is cognisant that international investment in the sector is needed and projects should not be jeopardised in the short term. But it remains flawed in several ways.

Put simply, the proposed four-year transition is not sufficient. Investors require time to assess, restructure, and, where necessary, rebalance their portfolios in response to material tax changes, which this would be.

A four-year timeframe will create higher market disruption and see capital exiting existing assets, if not a fire sale of those assets, devaluing those projects and also reducing the attractiveness of the asset class to other investors. Such suboptimal investment decisions, taken in response to poorly considered policy will come to the detriment of both investors and the broader economy.

It should be noted that applying the discount over a longer transition period or implementing a lower effective rate of CGT for foreign investment in renewables on a prospective basis would have limited to no impact on the Federal Budget for the period of the forward estimates compared to that proposed in the draft legislation.

**Recommendation: reduce the proposed effective CGT rate for foreign investment in renewable energy to ensure a level playing field overall with domestic investors. This should be done prospectively and in perpetuity. OR extend the transition timeframe during which a discounted CGT rate applies to all renewable energy investments to at least 2050.**

## **Sovereign risk**

Across infrastructure, and particularly in renewable energy, Australia relies on international investment. It also competes globally for that investment, in an environment where capital is increasingly looking for settings that are clear, predictable and welcoming. Despite our comparative disadvantages in terms of geographic location and relative tax and development costs which are some of the highest in the OECD, investors have been attracted by Australia's perceived stability and predictability.

Retrospective application of the much broader definition of taxable real property places decades of investment decisions at risk, devaluing assets and leaving investors with no option for redress. It weakens confidence in the predictability and integrity of Australia's policy framework – running counter to policy imperatives across a number of portfolios including housing, energy and infrastructure. In the Treasury portfolio, it is in direct contradiction to the intent of measures announced by government – most notably the Investor Front Door and the recently-signed Australia-UK Investment Partnership. The disconnect between these policy directions only adds to the uncertainty investors view Australia with.

Infrastructure investment decisions are made over multi-decade horizons, based on the rules in place at the time capital is deployed. Altering those rules after the fact introduces a level of uncertainty that investors must price in, devaluing existing assets, increasing the cost of capital or diverting investment elsewhere. If, as appears to be the case, this legislation overrides existing tax treaties it could be problematic not only for investors from impacted jurisdictions, but also potentially for Australian investors who may face reciprocal measures on their investments.

Equally importantly, it damages Australia's trustworthiness and attractiveness as an investment destination. This has direct implications for Australian households. Higher sovereign and policy risk translates into higher financing costs for all infrastructure, including energy and housing. These increased costs are borne by consumers through higher energy prices, higher housing costs, reduced wage growth, and slower economic expansion.

A statement released by the ATO on 16 April states that it would not typically review disposals from more than four years ago and is presumably designed to give comfort to investors that it would not now begin pursuing CGT on disposals from before 2022. However, it also opens by stating that "*The draft law confirms, with retrospective effect, the ATO's long-standing view and compliance approach that the term 'real property' is not limited to its narrow, technical legal meaning. This aligns with how we have administered the law. If the law is enacted, we would not expect to change our existing administrative approach.*"

In effect, the ATO's interpretation of the law has been at odds with how that of the courts, and the government is proposing to overrule the decisions of at least two courts in favour of investors by retrospectively applying the expanded, ATO-aligned definition. This would set a concerning precedent and gives investors no confidence that transactions will not be reviewed, and that this type of aggressive expansion of definitions in pursuit of tax revenues will not take place in other sectors.

At a time when significant private capital is required to support the energy transition and address cost-of-living pressures, policy settings that elevate risk will have unintended and far-reaching consequences.

**Recommendation: Provide certainty to investors by amending the draft legislation to only apply prospectively**

## **Additional items**

The draft legislation also proposes changes to the Principal Asset Test and the notification requirements for Non-Indirect Australian Real Property Interests. We do not have detailed comments on these two items beyond noting that increasing complexity in reporting and due diligence processes will add even more costs to renewable energy projects. Further delays or costs, particularly if combined with substantially higher effective tax rates as proposed, will cause investors to reconsider their exposure to Australian renewable energy assets.

## **Lack of consultation and transparency**

Despite this issue having been first flagged in the 2024-25 Federal Budget, investors and renewable energy project proponents have been blindsided by the draft legislation's proposed retrospective application of the expanded definition of taxable property. This is a significant departure from existing policy that had not been proposed in consultation with industry before now, and neither this nor the impact of a 30% CGT rate have been supported by the release of any modelling to show Treasury has considered the short and longer-term impacts.

Compounding the challenge for industry to respond meaningfully is the very truncated consultation period of two weeks on the exposure draft, which closes a mere two weeks ahead of the Federal Budget this year. This has significantly constrained the ability for groups like IGCC to commission rigorous and

independent analysis of the impacts, or for our members to fully model the impact on their investments and portfolios.

We respect the government's intention in strengthening the foreign investor CGT regime is to remove uncertainty around definitions and ensure foreign investors pay a fair and reasonable rate of tax upon disposal of eligible assets. We support these principles, however the approach taken suggests previous feedback from industry regarding the potential implications of changes to foreign investor CGT liability on Australia's renewable energy sector has not been considered.

Treasury has failed to demonstrate consideration of the impacts a high ongoing rate of CGT would have on investment decisions and flows now and into the future, particularly in renewable energy. Similarly, the transition period discount end date appears to have been chosen arbitrarily, and does not reflect investment decision horizons, or Australia's long-term climate policy.

The question is not whether foreign investors should be liable for CGT on disposal of particular assets, but rather what an appropriate and fair rate is to create a more level playing field for **ALL** investors in Australian renewables, and how or for how long any discounts should apply. Sensible answers to these questions should be based on rigorous modelling of the impact of various alternatives on renewable energy investment, deployment, and supply, and the subsequent impacts on energy prices for Australians now and in decades to come.