



# Extractive Industries Transparency Initiative (EITI) Gap Analysis

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Industry, Innovation and  
Science**

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**Australian Government**  
**Department of Industry,  
Innovation and Science**





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The findings in this Gap Analysis have been formed on the above basis.

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# GLOSSARY

Term	Description
<b>ATO</b>	Australian Taxation Office
<b>Board</b>	The International EITI Board
<b>Department</b>	The Department of Industry, Innovation and Science
<b>EITI</b>	Extractive Industries Transparency Initiative. Also referred to as 'the Initiative'.
<b>EU</b>	European Union
<b>FATF</b>	Financial Action Task Force
<b>Gap Analysis</b>	The analysis of the gap between Australia's EITI pilot (2011-2014) and the current 2016 EITI Standard.
<b>Mandatory</b>	In the context of the EITI Standard, use of the terms 'must', 'should', 'required' indicates that a requirement is mandatory. Mandatory can also be used to describe an EITI process in which reporting entities are compelled to disclose information by legislation.
<b>Materiality</b>	In the context of EITI, materiality levels or thresholds are set to determine what size company (and above) should report under EITI and/or which revenue streams should be disclosed.
<b>MSG</b>	Multi-Stakeholder Group
<b>OECD</b>	Organisation of Economic Co-operation and Development
<b>OGP</b>	Open Government Partnership
<b>Optional</b>	Use of the terms 'recommended', 'encouraged', 'may wish' and 'could' in the Standard indicate that a requirement is optional.
<b>Pilot</b>	The pilot of the EITI process that was undertaken in Australia between 2011 and 2014.
<b>Reporting Entity</b>	A company or government agency that discloses information as part of the EITI process.
<b>Requirement</b>	An individual component of the EITI Standard.
<b>Rules</b>	The EITI Rules codified EITI policy prior to the publication of the first EITI Standard in 2013.
<b>SEC</b>	Securities and Exchange Commission (United States)
<b>Secretariat</b>	The International EITI Secretariat
<b>Standard</b>	First promulgated in 2013 to replace the EITI Rules. Revised and updated in 2016. In this report 'the Standard' refers to the 2016 EITI International Standard (24 May 2017).
<b>SOEs</b>	State Owned Enterprises
<b>TTC</b>	Tax Transparency Code
<b>Validation</b>	The independent process by which EITI countries are regularly evaluated on their implementation of the Standard.
<b>Voluntary</b>	A process by which reporting entities agree to disclose information without being compelled to do so by legislation.

**It should be noted that the analysis and findings of this Gap Analysis was completed on the 4th April 2019 and therefore does not take into account any changes to the Extractive Industries Transparency Initiative (EITI), government legislation or policy, or company or civil society views on or in relation to EITI. The Gap Analysis was completed before the most recent version of the EITI Standard was published on 17 June 2019.**

## EXECUTIVE SUMMARY

In November 2018, the Department of Industry, Innovation and Science commissioned KPMG to undertake a gap analysis between Australia's EITI Pilot (2011-2014) and the current 2016 version of the EITI Standard. This Report identifies a number of requirements that have been introduced to the current 2016 EITI Standard that were not previously considered by the Pilot. This Report finds that the decisions that might be made by Australia's EITI Multi-Stakeholder Group ('the MSG'), would impact more so on the scope of EITI reporting, than the changes that have been made to the EITI Standard. That Standard contains significant opportunities for the MSG to make decisions that will determine the overall scope of any EITI program.

The scope of this Gap Analysis requires a difficult balance between identifying practical measures that would facilitate EITI implementation in Australia, while at the same time making no recommendations on whether implementation should occur. For that reason, it is important to state upfront that the following findings and suggestions are entirely subject to whether Australia decides to join the EITI. They should in no way be considered a recommendation as to whether Australia should join.

The first key suggestion on how an Australian EITI programme might be facilitated is that there should be significant investment in building the capability of any future multi-stakeholder group. Virtually all of the eight aspects of the EITI Standard highlighted below require the multi-stakeholder group to come to an agreement on the breadth and depth of EITI disclosure. The experience of other countries implementing the EITI is that the positive or negative dynamics of these groups, which are designed to act as decision-making bodies (not consultative groups), will ultimately determine whether a country is successful in its eventual validation process. In other EITI countries, this kind of capability building and support has included:

- Supporting the development of wider constituency groups outside of the MSG so that government, company and civil society organisations are able to effectively represent the views of those wider groups, as well as secure their buy-in to facilitate implementation.
- The provision of training and briefings on aspects of industry operations, regulation and taxation.
- The provision of independent research and analysis on various aspects of or approaches to EITI implementation.
- The provision, if necessary, of financial support to enable full attendance at full MSG meetings or meetings of technical working groups.

This kind of support would have budget implications for any future EITI implementation, in addition to the costs of gathering and disclosing EITI-related information. Those costs, while not considered as part of this Gap Analysis, would fall on government and to a lesser degree on companies that fall within the materiality threshold agreed by the MSG.

The second key suggestion for facilitating the EITI implementation in Australia would be the need to recognise the many unique and complex features of Australia's very different petroleum, gas and mineral resources sectors, and how they are governed. This recognition may require a first round of reporting that is very tightly scoped in terms of the number of reporting entities and revenue streams captured by the process – i.e. similar to the scope adopted in the pilot process. Such an approach would involve EITI in Australia being developed initially as a voluntary instrument (i.e. non-legislative). It would need to be accepted, however, that the scope and number of government and company entities covered would likely be revisited, revised and expanded after the first round of reporting. This approach to evolving the breadth and depth of reporting over time is very common in many EITI countries.

Finally, it would be important to have a model of EITI implementation complete (i.e. agreed by the MSG) or as near complete as possible at the point of application to join the EITI. This model would in particular need to identify those elements of Australia's petroleum, gas and mineral resources sector governance that:

- Might require international Board approval as 'adapted implementation';
- Constitutes 'systemic disclosure' and therefore may not require ongoing, regular separate EITI reports; and
- Goes beyond any current aspects of the EITI Standard.

## Gap Analysis Findings

Beyond the above suggestions, there are eight areas in the 2016 EITI Standard that would likely pose some degree of challenge to any potential implementation of the initiative in Australia. Those are as follows:

1. **Oversight by the MSG:** Although not a new requirement, the ability of the MSG to reach rapid agreement on the model of the Standard to be adopted to successfully meet the reporting and validation timelines will be key (Requirement 1 of the 2016 EITI Standard).
2. **Comprehensive disclosure of taxes and revenues:** The overarching thresholds that define which reporting entities (both companies and government agencies) would be deemed 'material' (Requirement 4.1 of the 2016 EITI Standard).
3. **Identifying beneficial owners:** The approach taken to the new EITI requirements related to identifying the beneficial owners of petroleum, gas and mineral resources companies (Requirement 2.5 of the 2016 EITI Standard).
4. **Infrastructure provisions, barter arrangements and transportation revenues:** Consideration of whether any aspects of Australia's petroleum, gas and mineral resources sectors might trigger EITI requirements related to infrastructure provisions and transportation revenues for activities downstream of the extractive activity (Requirement 4.3 and 4.4 of the 2016 EITI Standard).
5. **Subnational transfers:** The approach taken to payments made to States and Territories, as well as revenues that might fall under the requirements related to subnational transfers (Requirement 4.6 and 5.2 of the 2016 EITI Standard).
6. **Project-level reporting:** The approach taken to agreeing multiple definitions of what constitutes a 'project' for the purposes of implementing the new requirements related to project-level reporting (Requirement 4.7 of the 2016 EITI Standard).
7. **Mainstreaming:** The willingness of the EITI Board to consider some aspects of the pilot model that would now fall under EITI requirements related to continuous or systemic disclosure, and/or a possible application for 'adapted implementation' (Requirement 7.2 and 8.1 of the 2016 EITI Standard).
8. **Securing full company disclosure:** Whether those reporting entities were willing to participate in the EITI voluntarily, or if legislation would need to be passed in order to compel them to participate. At present, with the exception of large payers of corporation tax, Commonwealth and state legislation prohibits the disclosure of individual company tax and royalty payments (multiple Requirements of the 2016 EITI Standard).

Finally, it should be noted that just as the 2016 EITI Standard creates additional challenges for any potential implementation of the initiative in Australia, there are some aspects that would appear to be relatively simple to implement. Significant elements of EITI requirements are routinely and automatically disclosed in Australia and could be put forward as part of the 'systemic disclosure' process identified above. Furthermore, there are some aspects of proposed changes to the EITI Standard (to be considered mid-2019) that would in fact align well with the approach taken during Australia's previous pilot of the initiative.



# 1. INTRODUCTION



## 1.1. CONTEXT

*The Extractive Industries Transparency Initiative (“EITI”) is the principal global standard for promoting improved governance and accountability in resource-rich countries.*

In 2011, the Australian Government announced it would pilot the EITI (“the Initiative”) to examine the potential impacts of implementation and to inform a recommendation to government on Australia’s adoption. The Department of Industry, Innovation and Science (“the Department”) convened and chaired the pilot Multi Stakeholder Group (MSG), provided the Secretariat, and coordinated the consolidation of findings from the pilot exercise. Outcomes from the pilot were extensively documented in the MSG report to government, released in 2015.<sup>1</sup> On completion of the pilot, the MSG recommended that Australia should move to implement the adapted EITI model that was developed during the pilot and which would be appropriate in the Australian context.

The MSG disbanded after the finalisation of the pilot report. The MSG was re-established in 2016 and met for the first time in November 2016. However, since that time, the different issues and subject areas covered by the EITI have evolved considerably. As such, any additional issues and disclosure requirements need to be given adequate consideration ahead of any decision as to whether Australia should or should not formally join the EITI. This Gap Analysis Report seeks to provide an overview of those new

issues and requirements, clarify their significance, and where possible to make suggestions as to how (or whether) they might be addressed.

There has been one iteration of the EITI Standard that was first adopted in 2013 and then subsequently updated in 2016. It is important to note that unless otherwise stated, any references in this Report to ‘The EITI Standard 2016’ refers to that published by the International EITI Secretariat on 24 May 2017.<sup>2</sup>

## 1.2. PROJECT SCOPE AND LIMITATIONS

KPMG was engaged by the Department to identify gaps in Australia’s ability to implement and comply with the EITI Standard 2016 with existing or announced relevant Australian Commonwealth and State and Territory policies, laws, and regulations.

Specifically, the consultant’s scope was to:

- Identify and provide an overview of any gaps in Australia’s ability to implement and comply with the 2016 EITI Standard with existing or announced relevant Australian Commonwealth and State and Territory policies, laws, and regulations;
- Identify other relevant transparency initiatives which Australia is a party to by Commonwealth or State and Territory governments that might be relevant to the 2016 EITI Standard requirements;
- Where gaps are identified, provide indicative analysis of the effort required to close such gaps where possible;
- Consult with the members of the MSG, as well as government agencies and other stakeholders involved in the management of the extractive industries to obtain their views regarding how best to implement and comply with the 2016 EITI Standard, and
- Provide practical suggestions on how to address identified gaps and barriers.

<sup>1</sup> Extractive Industries Transparency Initiative Multi-Stakeholder Group Report to Government, 2015.

<sup>2</sup> This version of the EITI Standard is the one most current at the time of writing. Available at: [https://eiti.org/sites/default/files/documents/the\\_eiti\\_standard\\_2016\\_-\\_english.pdf](https://eiti.org/sites/default/files/documents/the_eiti_standard_2016_-_english.pdf).



It is important to note that the scope of the Gap Analysis explicitly excluded “any policy recommendation(s) regarding whether Australia should join or not join the EITI”. The Gap Analysis is also not to serve as a proxy for any cost benefit analysis of EITI implementation.

Finally, at the time of finalising this Report, the International EITI Board was considering potential revisions to the EITI Standard. While those proposed changes are outlined in the Report, it should be noted that they are not yet considered part of the EITI Standard.

### **1.3. METHODOLOGY**

An evidence-based approach was adopted in developing this analysis, drawing on a wide range of data to understand the EITI Standard before contextualising it with extensive stakeholder input. The key stages in the approach are outlined below.

- Reviewing the 2016 EITI Standard requirements and determining where those requirements might align or not align with Australia’s current policy and legislative frameworks.
- Reviewing Australia’s previous pilot of the EITI.
- Reviewing publically available information that would be relevant for EITI implementation.
- Identifying other relevant transparency initiatives which Australia is already a party to.
- Consulting with the members and observers of the MSG, individually and collectively, to obtain their views regarding which requirements 2016 EITI Standard would be straightforward to implement, and which requirements might prove more challenging.
- Assessing the practical implications of mainstreaming consistent with the 2016 EITI Standard.



## 2. BACKGROUND



## 2.1. THE EVOLUTION OF EITI POLICY

In order to carry out the Gap Analysis it is important to understand what the requirements of EITI are and how those requirements have evolved over time. In particular, it is important to understand which aspects of the 2016 EITI Standard are sufficiently different from the EITI Rules that were the basis of Australia's previous pilot of the Initiative.

The EITI was launched in 2002 by the UK Government at the World Summit on Sustainable Development. While what it means to implement the EITI has changed a lot since then, at its heart the EITI has always involved a dual governance mechanism combined with international validation. Those mechanisms and processes are as follows:

- A transparency/disclosure mechanism that has focused predominantly on payments by companies to governments at all levels; and information on how those payments and revenues are then distributed and used.
- An accountability mechanism that is based on a multi-stakeholder governance process involving governments, companies and civil society organisations making key decisions rather than simply acting as a consultative body.
- A validation process that measures the progress of countries implementing the 2016 EITI Standard.

The Initiative is overseen by an international governance process that is also based on negotiations between governments, companies and civil society organisations. The EITI's main governing body is the International EITI Board, which is supported by the International EITI Secretariat in Oslo. The EITI Conference meets every three years to (amongst other things) elect the members of the Board.

The principal source of day-to-day advice, recommendations and knowledge sharing on EITI is the International EITI Secretariat. It should be noted, however, that the evaluation of how individual countries choose to implement the EITI is carried out by a separate validation process, and that EITI policy, clarifications of that policy, and decisions on whether a particular country approach is consistent with policy, is determined solely by the Board and committees of the Board, not the Secretariat.

Another feature of the EITI is that the 2016 EITI Standard and implementation practices are in a state of continuous evolution based on the lessons learned and innovations developed by individual implementing countries, as well as by negotiations by the International EITI Board and Conference. These changes are reflected in the following timeline (Figure 1).

*Figure 1: The evolution of EITI Policy*



In addition to the regular development of EITI policy, the International EITI Board is regularly called upon to make decisions that clarify various aspects of the 2016 EITI Standard. This policy making process is then complemented with the provision of extensive and detailed guidance that is continuously updated by the International EITI Secretariat, principally through EITI Guidance Notes on various topics (at time of writing 29 such Guidance Notes exist).<sup>3</sup>

This process of continuous change has occasionally posed challenges for countries outside of EITI to understand what implementation of the initiative might involve. As a result, various countries that did not initially sign up to EITI have since joined the Initiative as it has evolved to become more pertinent to their governance challenges and aspirations. Correspondingly, some countries have arguably left EITI on the grounds that it has been seen as departing from the mandate they had joined under.

<sup>3</sup> Available at: <https://eiti.org/publication-types-public/guidance-note>.

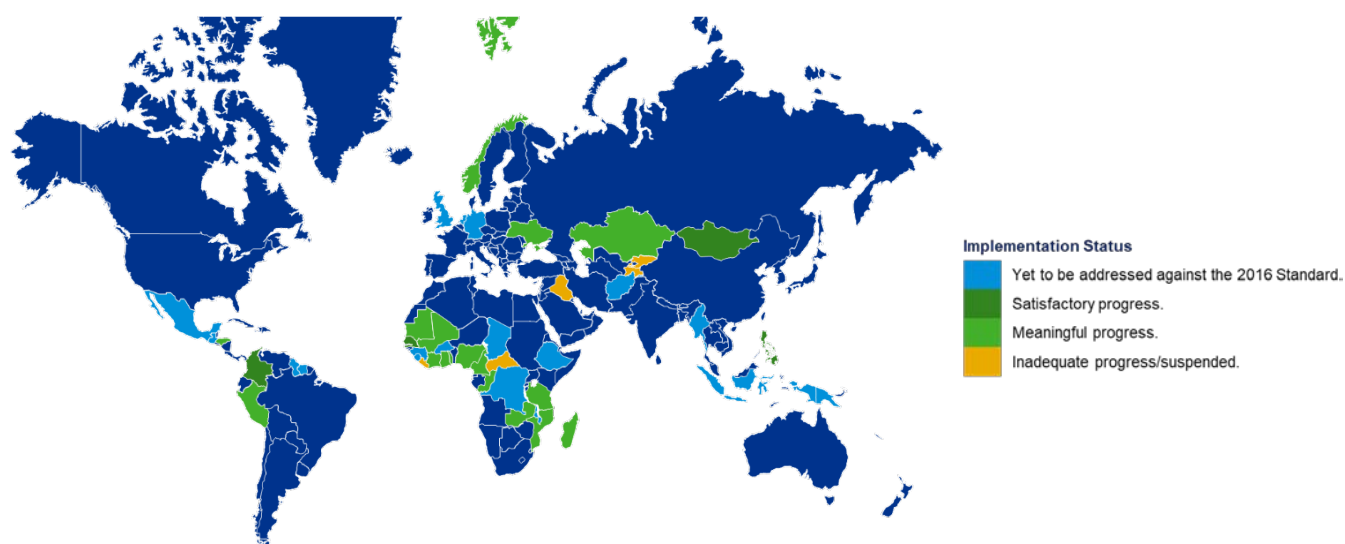
A key consideration for Australia when it comes to considering whether to join the EITI is that it is impossible to predict when or how the EITI might change; while at the same time recognising that membership ultimately confers the ability to exert influence over what those changes might be.

At the time of writing, 52 countries are implementing the 2016 EITI Standard (Figure 2). Of those countries:

- Seven have been assessed as having made ‘satisfactory’ progress against the 2016 EITI Standard – this is the highest classification of the EITI validation process.
- 22 have been assessed as having made ‘meaningful’ progress against the 2016 EITI Standard.
- Ten have made ‘inadequate progress’, or have been suspended due to political instability or for missing a reporting deadline.
- 13 countries have yet to be assessed against the 2016 EITI Standard.

While initially implemented mainly by non-OECD countries, there are now five OECD members implementing the EITI. They are Germany, the Netherlands, Mexico, Norway, and the United Kingdom.

*Figure 2: Implementation status of EITI member countries*



## 2.2. AUSTRALIA AND THE EITI

The Australian Government has been a supporter of the EITI globally since 2006. Australia has contributed more than \$20 million towards the Initiative since 2006, which includes support to the EITI International Secretariat and support through global and multi-country investments.

The EITI pilot was announced by then Foreign Minister Kevin Rudd and Minister for Resources, Energy and Tourism Martin Ferguson at an Australia-Africa mining event at the 2011 Commonwealth Heads of Government Meeting.<sup>4</sup> The pilot’s objectives were to consider the implications of EITI candidature for Australia’s legal and fiscal frameworks, and to conduct a trial reconciliation of payments, as well as a cost benefit analysis of the process.

The pilot was chaired and supported by the Department in 2013 but was carried out at a time in which the Initiative was transitioning from the then ‘EITI Rules’ (which were focused mainly on payments and revenues) to the first version of EITI Standard (which has a much broader approach to disclosure). The pilot MSG had 21 members, with seven members each for industry, government and civil society, and five observers.<sup>5</sup>

<sup>4</sup> EITI Website, *Australia to pilot the EITI*, 2011, available at: <https://eiti.org/news/australia-to-pilot-eiti>.

<sup>5</sup> Three states (Queensland, South Australia and Tasmania), the Australian Government, and eight companies volunteered. The companies included BHP, Rio Tinto, ExxonMobil Australia, Shell Australia, BP Australia, MMG, ERA and OzMinerals.



The pilot used a systems analysis approach that examined the then governance and reporting arrangements and focused on highlighting gaps where transparency and accountability were present. To test the EITI reconciliation, three states, the Australian Government, and eight companies (ranging in size, commodities and operating across Australia's jurisdictions) volunteered to report under the most relevant revenue streams. This 'hybrid model' was proposed to maximise the benefits of the Initiative without incurring significant cost to industry.

The EITI MSG Report to Government reported that the reconciled payments were to "a high degree of accuracy, with a total of \$4 million (0.03 per cent of the total payments) presented as an unexplained variance".<sup>6</sup> On completion of the pilot, the MSG unanimously recommended that Australia should implement the EITI. The recommendation was for a payment reporting model developed under the pilot that relies on a sampling method to test data integrity.

In 2016 a new MSG was established and it has since met five times since 2016, most recently in December 2018 to consider the work of this Gap Analysis. There has been some change in the individual membership of the group since 2016. Two working groups – a Technical Working Group, and a Beneficial Ownership Working Group – have been formed. The Technical Working Group has focused principally on the issue of project level reporting.

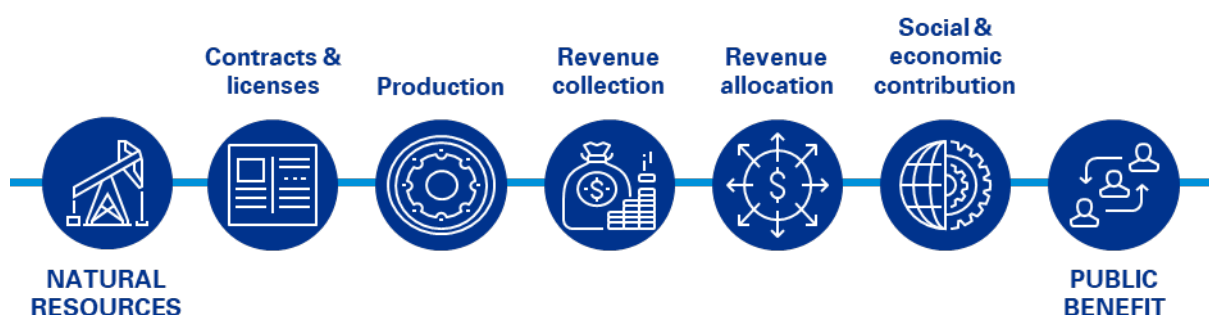
## 2.3. OVERVIEW OF THE 2016 EITI STANDARD

The key evolution in the Standard, compared to previous EITI policy (such as the EITI Rules), was requiring the disclosure of not only payments and revenue data, but also wider contextual information. That additional information includes how petroleum, gas and mineral resources rights are granted and regulated; state participation in projects; commodities trading; social payments; and transfers between different levels of government.

The 2016 EITI Standard then added further new requirements related to:

- Beneficial ownership: information on which companies, organisations and individuals have ultimate ownership and control of companies in the extractive industry.
- Guidelines around mainstreaming EITI implementation as a routine part of a country's operations rather than a standalone initiative.
- Increased levels of disclosure, including project-level reporting.
- Different ways of measuring country progress through the EITI validation process.

Figure 3: The EITI Standard Value Chain<sup>7</sup>



As a result of these changes, the current 2016 EITI Standard now contains a number of reporting requirements that did not exist at the time of the pilot of EITI in Australia from 2011 to 2014. In order to understand those different requirements, however, it is important to recognise that there are two overarching factors that determine how much or how little is disclosed under each individual requirement of the 2016 EITI Standard.

<sup>6</sup> Extractive Industries Transparency Initiative Multi-Stakeholder Group Report to Government, 2014: 40.

<sup>7</sup> Graphic available at: <https://eiti.org/who-we-are>.

## 2.3.1. MANDATORY AND OPTIONAL ELEMENTS OF THE EITI STANDARD

The first aspect that affects the scope of EITI implementation, and therefore the level of ‘gap’ that may or may not exist with Australia’s previous EITI pilot, is the mixture of mandatory and optional elements. Understanding the terminology that signposts these different elements is therefore crucial, and for that reason the relevant terms from the 2016 Standard are quoted directly below.

### Key 2016 EITI Standard Terminology<sup>8</sup>

The use of the terms ‘must’, ‘should’, ‘required’ in the 2016 EITI Standard indicates that an issue is mandatory and will be taken into account in the assessment of compliance with the 2016 EITI Standard.

The use of the term ‘expected’ in the 2016 EITI Standard indicates that the multi-stakeholder group should consider the issue, and document their discussions, rationale for disclosure/non-disclosure and any barriers to disclosure. Valuation will consider and document the discussions by the multi-stakeholder group.

The use of the terms ‘recommended’, ‘encouraged’, ‘may wish’ and ‘could’ in the 2016 EITI Standard indicates that an issue is optional. Efforts by the multi-stakeholder group will be documented in the ‘Validation’ stage but will not be taken into account in the overall assessment of compliance with the 2016 EITI Standard.

## 2.3.2. AREAS OF NATIONAL-LEVEL DISCRETION IN THE EITI STANDARD

The second key aspect of the 2016 EITI Standard that impacts the scope of implementation is the way implementation can be carried out is defined at the international level, or through the decisions of an individual country’s MSG. While the number of subject areas and issues covered by EITI has greatly expanded over the past 16 years, there are still many (both old and new) elements where what is disclosed or how it is disclosed is ultimately at the discretion of an individual country’s MSG. For example, the 2016 EITI Standard requires the disclosure of all ‘material’ revenues, but the definition of ‘material’ is left to each country’s discretion.

In the context of this Gap Analysis, this matters because should the decision be made that Australia will join the EITI, the greatest determinant of how complex implementation would be would not be the changes that have happened to EITI policy since 2011, but rather the model of EITI that Australia’s MSG decides to adopt.

Table 1 below provides a high level overview of both of these factors – i.e. which aspects of the 2016 Standard are mandatory or optional; and which aspects are extensively defined at the international level, and which aspects still contain significant areas of discretion (and therefore key decisions that need to be made) by the national-level MSG.

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<sup>8</sup> The EITI Standard 2016, available at: <https://eiti.org/document/standard>.

Table 1: The 2016 EITI Standard's mandatory requirements and levels of discretion for national multi-stakeholder groups<sup>9</sup>

EITI Requirement	Mandatory or Optional	Level of MSG Discretion	Comments
<b>EITI REQUIREMENT 1: OVERSIGHT OF THE MSG</b>			
1.1 Government engagement	Mandatory	Moderate	Number and type of government and company representatives significantly influenced by materiality decisions made by MSG.
1.2 Company engagement	Mandatory	Moderate	Number and type of government and company representatives significantly influenced by materiality decisions made by MSG.
1.3 Civil society engagement	Mandatory	Low	Key issues in determining country validation status. The EITI Board will first and foremost consider these requirements when considering how a country has chosen to interpret and implement the 2016 EITI Standard.
1.4 Multi-stakeholder group	Mandatory	Low	Key issues in determining country validation status. The EITI Board will first and foremost consider these requirements when considering how a country has chosen to interpret and implement the 2016 EITI Standard.

<sup>9</sup>This is a high-level summary of the 2016 EITI Standard carried out for this Gap Analysis. While the descriptions of which requirements are mandatory or optional is drawn directly from the 2016 EITI Standard, the assessment of the level of MSG discretion has been developed by KPMG, independent of the EITI Board, the Department and the Australian MSG. Some requirements contain a mixture of mandatory and optional elements, and/or areas where there is a mixture of levels of discretion for the MSG. Where this occurs the table has mainly erred on the side of mandatory requirements, and identifying where levels of MSG discretion are low. Some requirements have been listed as 'not applicable' where it is unlikely that they would impact on implementation in Australia.

With regards to 'Level of MSG Discretion' assessment, the following descriptors and definitions are used: **'Low'** is used to indicate that the EITI Standard and supporting policy (e.g. decisions of the EITI Board) leave relatively little room for country-specific interpretation. **'Moderate'** is used to indicate where a requirement contains some elements that require the national MSG to make decisions on how reporting should be carried out. **'High'** is used to indicate a requirement where there is both national level discretion around how that requirement is met, and where the decisions made by the MSG will have a significant impact on the overall extent and scope of the EITI process.

EITI Requirement	Mandatory or Optional	Level of MSG Discretion	Comments
1.5 Work plan	Mandatory	Moderate	Elements required are clearly defined in 2016 EITI Standard but significant variation in level of work plan detail provided by each country.
<b>EITI REQUIREMENT 2: LEGAL AND INSTITUTIONAL FRAMEWORK, INCLUDING ALLOCATION OF CONTRACTS AND LICENCES</b>			
2.1 Legal framework and fiscal regime	Mandatory	High	A description of the legal framework.
2.2 Licence allocations	Mandatory	Moderate	Not full disclosure – only those granted during the reporting period.
2.3 Register of licences	Mandatory	Moderate	Level of licence detail can be influenced by MSG.
2.4 Contracts	Optional (but note potential change)	Moderate	Countries are encouraged to disclose contracts. Countries must publish their position / policy on contract disclosure.
2.5 Beneficial ownership	Optional but Mandatory from 2020	Moderate	Mandatory requirement from January 2020 but significant discretion for MSG in terms of how it is defined. Focus of significant guidance from the EITI Board.
2.6 State participation	Not Applicable	Not Applicable	Relates to State Owned Enterprises (SOEs).
<b>EITI REQUIREMENT 3: EXPLORATION AND PRODUCTION</b>			
3.1 Exploration	Mandatory	High	Disclosure of an overview of the extractive industries, including any significant exploration activities.



EITI Requirement	Mandatory or Optional	Level of MSG Discretion	Comments
3.2 Production	Mandatory	Moderate	Must contain total production by volume, value and commodity.
3.3 Exports	Mandatory	Moderate	Total volumes, including by origin.
<b>EITI REQUIREMENT 4: REVENUE COLLECTION</b>			
4.1 Comprehensive disclosure of taxes and revenues	Mandatory	High	MSG determines which revenue streams are material. Requirement for reconciliation of payments and revenues.
4.2 Sale of the state's share of production or other revenue collected in kind	Not Applicable	Not Applicable	Applicable only in countries with SOEs, production share agreements, etc.
4.3 Infrastructure provisions and barter arrangements	Mandatory	High	To be disclosed if 'material'.
4.4 Transportation revenues	Mandatory	High	To be disclosed if 'material'.
4.5 Transactions related to state-owned enterprises	Not Applicable	Not Applicable	-
4.6 Subnational payments	Mandatory	High	Only where payments / revenues are considered material.
4.7 Level of disaggregation	Mandatory	Moderate	MSG agrees the level of disaggregation for the publication of data. Reporting at project level is required.
4.8 Data timelines	Mandatory	Low	First report within 18 months of joining. Data no more than two years old.
4.9 Data quality and assurance	Mandatory	Moderate	Independent reconciliation unless Board approval given for 'mainstreaming' approach.

EITI Requirement	Mandatory or Optional	Level of MSG Discretion	Comments
<b>EITI REQUIREMENT 5: REVENUE ALLOCATIONS</b>			
5.1 Distribution of extractive industry revenues	Mandatory	Low	Identification of any revenues not distributed to the budget.
5.2 Subnational transfers	Mandatory	Moderate	Typically involves reporting of transfers of extractives specific taxes and royalties by national governments to state-level governments.
5.3 Revenue management and expenditures	Optional	High	If extractive industry funds are earmarked for specific areas or purposes – description of how this is determined and used.
<b>EITI REQUIREMENT 6: SOCIAL AND ECONOMIC SPENDING</b>			
6.1 Social expenditure by extractive industry companies	Mandatory	High	Only where mandated by law and/or are material.
6.2 Quasi-fiscal expenditures	Not Applicable	Not Applicable	Only relevant where government is a financial partner in a development (normally via a SOE).
6.3 The contribution of the extractive sector to the economy	Mandatory	Low	Basic economic data related to the extractive industries sector.
<b>EITI REQUIREMENT 7: OUTCOMES AND IMPACT</b>			
7.1 Public debate	Mandatory	Moderate	MSG to ensure it is 'comprehensible, actively promoted, publicly accessible, and contributes to public debate'.

EITI Requirement	Mandatory or Optional	Level of MSG Discretion	Comments
7.2 Data accessibility	Optional	Moderate	Machine readable reports; automated disclosure; capacity building to increase awareness and understanding.
7.3 Discrepancies and recommendations from EITI Reports	Mandatory	Low	MSG must investigate and explain material discrepancies.
7.4 Review the outcomes and impact of EITI implementation	Mandatory	Low	Annual progress reports and commitment to validation.

## 2.4. PROPOSED CHANGES TO THE EITI REQUIREMENTS

The final aspect of the EITI Standard that needs to be considered as part of the Gap Analysis is the possibility that requirements will be updated or added to in the future. As Section 2.1 above shows, what it means to 'do EITI' has evolved regularly and significantly since 2002. The process for considering policy changes is that proposals are developed in detail and are discussed by the International EITI Board in advance of the EITI Global Conference that is held every two to three years. With the next such conference due to be held in June 2019, it is highly likely that the Requirements will change soon.

It will not be possible to confirm any changes to the 2016 EITI Standard until that conference, but it should be acknowledged that the EITI Board is already considering potential updates and new requirements that might be added to the Standard.<sup>10</sup> These proposals were discussed at the EITI Board meeting held in Kyiv February 2019, and Table 2 below gives a summary of the changes to the Standard that were considered by the Board.

Many of the changes proposed here would (if adopted) either be voluntary aspects of the updated Standard (i.e. 'encouraged'), or are clarifications of existing requirements. There appear to be few additions to the 2016 EITI Standard that would impose a substantial or immediate new burden on countries implementing or considering implementing the Initiative. Indeed, one of the proposed changes (to Requirement 4) would actually simplify the EITI process and bring it more in line with the approach that was first adopted in Australia's 2014 pilot exercise.

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<sup>10</sup> Details of the proposed changes, available at: <https://eiti.org/document/overview-of-proposed-changes-to-eiti-requirements>.



Table 2: Overview of proposed changes to EITI Requirements<sup>11</sup>

Issue addressed	Requirement covered	Proposed change(s)	Comments
1. Gender	1.4 – MSG governance 6.3 – Contribution to the economy 7.1 – Public debate	<ul style="list-style-type: none"> <li>Encouraging MSGs to consider gender balance in representation and to document how it has taken gender considerations and inclusiveness into account.</li> <li>Requiring disclosure of employment figures by project, role and gender.</li> <li>Encouraging gender considerations in the dissemination of EITI data.</li> </ul>	The revised proposal on gender has been endorsed by the EITI Board. Mandatory level reporting is at a high level (aggregated) only.
2. State Owned Enterprises (SOEs)	2.6 – State participation 4.5 – Transactions related to SOEs 6.2 – Quasi-fiscal expenditures	<ul style="list-style-type: none"> <li>Clarifications to the definition of SOEs and quasi-fiscal expenditures, coverage of transfers related to joint ventures and subsidiaries, and loan details to be disclosed.</li> <li>Expecting SOEs to disclose financial statements.</li> <li>Encouraging further disclosures on operations and governance.</li> </ul>	These relate to the operations of SOEs and are therefore likely to be irrelevant to EITI implementation in Australia.
3. Licensing transparency	2.2 – License allocations	Clarification that Requirement 2.2 covers contracts and license allocations and encouraged strengthened disclosures.	Reduces some ambiguity in original wording. Where different allocations processes are used, EITI report needs to explain which process is used in which circumstances.
4. Contract transparency	2.1 – Legal framework 2.4 – Contract disclosure	Implementing countries are required to disclose any contracts and licences that are granted, entered into or amended from 1 January 2021.	A very significant change in the EITI Standard, albeit one not due to be applied for two more years.
5. Production and export data	3.2 – Production 3.3 – Exports	Encourages the disclosure of production and exports by company and project.	Voluntary requirement (i.e. 'encouraged'). Might make project level reporting slightly more complex if adopted by MSG.

<sup>11</sup> EITI, "Overview of proposed changes in EITI Requirements" (2019). Available at: <https://eiti.org/document/overview-of-proposed-changes-to-eiti-requirements>.

Issue addressed		Requirement covered	Proposed change(s)	Comments
6.	Systemic disclosures	4.1 – Comprehensive disclosure of taxes and revenues  4.9 – Data quality and assurance	Shifting emphasis to comprehensive and reliable disclosures by reporting entities rather than reconciliation.	Reduces importance of current reconciliation process and EITI reports and encourages systemic disclosure. This proposal would fit particularly well with the approach adopted during Australia's earlier EITI pilot and may reduce the complexity / burden of reporting.
7.	Commodity Trading	4.2 - Sale of the state's share of production or other revenues collected in kind	<ul style="list-style-type: none"> <li>Clarifying the scope of the requirement.</li> <li>Encouraging disclosures of buyer selection.</li> <li>Encouraging disclosures by buying companies.</li> </ul>	This would be irrelevant in the Australian context.
8.	Project-level reporting	4.7 - Level of disaggregation	Aligning the definition of project with the definition in the EU Accounting and Transparency directives and approach in EITI guidance.	Provides clearer definition of what is meant by project level reporting.
9.	Subnational transfers	5.2 – Subnational transfers	Encourages further disclosure of the management of subnational transfers.	Voluntary requirement only.
10.	Environmental reporting	6.1 – Social expenditures by extractive companies	<p>Proposals yet to be agreed:</p> <ul style="list-style-type: none"> <li>Revising Requirement 6.1 to cover environmental expenditures, including the mandatory disclosure of material payments by companies to the government related to the environment if they are mandated by law, regulation or contract.</li> <li>Revising Requirement 6.3 to encourage the disclosure of information on the management and monitoring of the environmental impact of the extractive industries. This could include an overview of relevant legal provisions, <u>administrative rules as well as actual practice</u></li> </ul>	Reporting of environmental payments would be subject to materiality tests. Mandatory environmental insurance and bond provisions are potentially very large, though it is unclear as to whether they would constitute a 'payment'.

Issue addressed	Requirement covered	Proposed change(s)	Comments
		<p>related to environmental management and monitoring of extractive investments in Australia.</p> <ul style="list-style-type: none"> <li>• Encouraging disclosures of contextual information related to environmental monitoring.</li> <li>• Encouraging links to existing disclosures on climate risks.</li> </ul>	
11. Open data efforts	7.1 – Public debate 7.2 – Data accessibility	<ul style="list-style-type: none"> <li>• Clarification of the distinction between requirements on public debate and open data.</li> <li>• Clarification on requirement to disclose standardised EITI summary data.</li> </ul>	Useful but relatively minor clarifications only.
12. Impact and outcomes from EITI implementation	7.3 – Discrepancies and recommendations for EITI Reports 7.4 – Review the outcomes and impact of EITI implementation	<ul style="list-style-type: none"> <li>• Encourages MSGs to consider recommendations in EITI reporting.</li> <li>• Provides more flexibility for how MSGs choose to assess progress.</li> </ul>	Requires MSGs to strengthen annual review of impact and outcomes.
13. Consequences related to compliance and deadlines for implementing countries	8.3.c.i on consequences for non-compliance with Requirements related to stakeholder engagement	<ul style="list-style-type: none"> <li>• Clarification that implementing countries must achieve meaningful progress or beyond on stakeholder engagement to avoid suspension.</li> <li>• Adding a category for ‘outstanding’ progress.</li> <li>• Clarification that suspension is temporary.</li> </ul>	No significant impact.



### 3. GAP ANALYSIS



### 3.1. AUSTRALIA'S EXTRACTIVES SECTOR

One of the key findings of this Gap Analysis is that there are a number of factors that exist in Australia which, when combined, would pose a unique combination of challenges to potential EITI implementation. This is important because one of the great strengths of EITI policy is that it has evolved over time based on the collective experience of all EITI implementing countries. That experience has then fed into multi-stakeholder negotiations at the international level. So while the number of OECD countries implementing the EITI is increasing, the experience of early adopting EITI countries in Africa, the Caucasus and Central Asia, and to a lesser degree Latin America and the Asia Pacific, has left its impression on EITI policy.

The key factors that exist in Australia that will significantly shape any potential EITI implementation include:

- Significant petroleum, gas and mineral resources. Most EITI countries have reporting processes shaped by one type of extractive resource, which necessarily simplifies EITI reporting. Those industries operate very differently from one another and are also often integrated with significant downstream operations (e.g. refining, blending, smelting, and manufacturing).
- A very large number of mining companies. Australia has thousands of exploration and mining companies. This makes definitions of materiality crucial for any potential EITI implementation. This is discussed below (see 3.3.1).
- The public sector does not directly participate in production. Many EITI countries are host to either one or more state owned enterprises, and/or legislative frameworks in which the state holds a share in some or all major resource projects. While this can create complexity in EITI reporting, it can also provide governments with a strong lever to compel reporting by companies that the government might be in commercial partnership with, or to disclose information around projects operated by state-owned enterprises (SOEs).
- A long history of resource extraction and governance. Some EITI countries have adopted the EITI in response to the development of new resources, or a major scaling up of existing resources. Australia's long history of extraction means that legislative arrangements around different resources can be complex. It also means that there are long established administrative processes and systems that would need to be adapted to implement EITI.
- Confidentiality provisions in Commonwealth and state tax and royalty legislation that, with the exception of large corporate tax payers, prohibits the disclosure of individual company payments.
- Onshore and offshore resources which are governed by a mixture of state and federal legislative arrangements, and in some cases (such as Joint Authority areas) a combination the two.
- A mixture of international and domestic motivations around EITI. At a government level, Australia is both a supporting country of international EITI implementation, as well as a potential implementing country. Similarly, Australia serves as the global headquarters for petroleum, gas and mineral resources companies that are involved in EITI implementation in many countries around the world and which are global supporters of EITI.

The above key factors are not singularly unique to the EITI, however, the entirety of them is. Indeed, it is difficult to identify any other EITI country with a similar mixture of factors at play. This distinct combination of factors leads to two overarching findings of this Gap Analysis.

Firstly, if Australia is to adopt the EITI it will need to shape EITI policy to suit Australia's unique characteristics. As has been shown in Table 1 above, the 2016 EITI Standard is not a set of prescribed rules that must be followed in an identical manner regardless of country conditions. Instead, each country develops their own version of EITI. Because of the nature of Australia's extractive industries and how they are governed, this may result in EITI implementation based on a model in which the scope of disclosure expands and adapts over time. This approach, which can only work if clearly agreed by the MSG, has been used in many EITI countries to build their EITI programs at the same rate as there is understanding of and capacity in reporting entities (both government agencies and companies).



Secondly, several features of Australia's extractive industries governance would logically lend themselves to an EITI model that could combine elements of mainstreaming and possibly of adapted implementation. Both of these concepts (which are discussed in further detail in Section 3.7 Findings) are new elements of EITI policy that have been developed only since the introduction of the EITI Standard in 2013 (in the case of adapted implementation), and the 2016 iteration of the Standard (in the case of mainstreaming). In this regard, the 2016 EITI Standard – while wider in scope than the EITI Rules that influenced Australia's earlier pilot – also includes elements that might make it easier for OECD countries such as Australia to implement the Initiative.

## 3.2. SUMMARY OF GAPS

Table 3 below provides a high level break-down of the requirements of the 2016 EITI Standard and identifies:

- Whether the requirement was addressed as part of Australia's EITI pilot; and
- a qualitative indicator as to the ease or difficulty of implementation.

The 'ease of implementation' assessment is based on KPMG's assessment and focuses mainly on those requirements that were either not considered during the pilot, or which cut across multiple reporting requirements of the 2016 EITI Standard. A more detailed and quantifiable assessment of the ease of implementation would be possible only if Australia were to join the EITI and the MSG to agree on a specific model of EITI implementation

Table 3: Gap Analysis of the 2016 EITI Standard<sup>12</sup>

2016 EITI Standard Requirements	Covered in 2011 Pilot?	Ease of Implementation	Comments
<b>EITI REQUIREMENT 1 – OVERSIGHT OF THE MSG</b>			
1.1 Government engagement	Yes	Variable	Requires clear political level commitment by Commonwealth, States and Territories. See 3.3.1 below.
1.2 Company engagement	Yes	Variable	Ease of implementation depends on number of companies defined as ‘material’. See 3.3.1 below.
1.3 Civil society engagement	Yes	Moderate	Breadth of Australia’s extractives sector could require diverse range of local and national stakeholders.
1.4 Multi-stakeholder group	Yes	Complex	EITI MSGs are decision-making bodies, not consultative groups. Ease or difficulty of MSG negotiations is possibly the single greatest factor for success of country implementation and validation.
1.5 Work plan	Yes	Simple	Important that Work Plan reflects agreed objectives of EITI implementation.
<b>EITI REQUIREMENT 2 – LEGAL AND INSTITUTIONAL FRAMEWORK, INCLUDING ALLOCATION OF CONTRACTS AND LICENCES</b>			
2.1 Legal framework and fiscal regime	Yes	Simple	Currently available

<sup>12</sup> Definitions for ratings under Ease of Implementation consist of ‘**Variable**’ to indicated where the ease of implementation could range from ‘simple’ through to ‘complex’ depending on the scope of EITI program adopted by the MSG. ‘**Simple**’ is used to define requirements where it clear that information already exists and is already disclosed. ‘**Moderate**’ indicates an area in which significant effort would need to be made by the MSG and/or reporting entities to meet the requirement. ‘**Complex**’ is used to indicate requirements that would require a change in legislation and/or which have the potential to require very significant increases in disclosure compared to the pilot and/or which impact on the implementation of every single other requirement.

2016 EITI Standard Requirements	Covered in 2011 Pilot?	Ease of Implementation	Comments
2.2 Licence allocations	No	Simple	Currently available
2.3 Register of licences	No	Simple	Currently available
2.4 Contracts	No	Simple	Requirement to publish contracts is optional, but overall policy on the disclosure must be published.
2.5 Beneficial ownership	No	Complex	Mandatory requirement from January 2020 for all members but there is discretion for the MSG in terms of how it is defined. Government policy will be driven by non-EITI considerations. See detailed findings in 3.3.2 below.
2.6 State participation	Not Applicable	Not Applicable	Not Applicable
<b>EITI REQUIREMENT 3 – EXPLORATION AND PRODUCTION</b>			
3.1 Exploration	No	Simple	Currently available.
3.2 Production	No	Simple	Currently available.
3.4 Exports	No	Simple	Currently available.
<b>EITI REQUIREMENT 4 – REVENUE COLLECTION</b>			
4.1 Comprehensive disclosure of taxes and revenues	Yes	Complex	Ease of implementation depends on the reporting entity, project definition and revenue stream materiality decisions made by the MSG. Government entities are only able to disclose company-by-company data with permission of companies (with the exception of companies covered by the ATO's Corporate Tax Transparency Report). Australian taxpayers generally adopt a tax consolidation regime, treating all entities/projects as part of a single tax calculation. This would <u>require legislation if all companies were not willing to voluntarily disclose data.</u>

2016 EITI Standard Requirements	Covered in 2011 Pilot?	Ease of Implementation	Comments
			Reconciliation 'sampling' approach adopted in pilot may need to be agreed by EITI Board. See 3.3.1 below.
4.2 Sale of the state's share of production or other revenue collected in kind	Not Applicable	Not Applicable	Not Applicable
4.3 Infrastructure provisions and barter arrangements	No	Moderate	Need to be reported but only if defined as being material by the MSG. See discussion in 3.3.4 below.
4.4 Transportation revenues	No	Moderate	Need to be reported but only if defined as being material by the MSG. See discussion in 3.3.4 below.
4.5 Transactions related to state-owned enterprises	Not Applicable	Not Applicable	Not Applicable
4.6 Subnational payments	Yes	Complex	State governments would need to be consulted extensively to adopt any model of EITI beyond that used in the pilot. Similar to Commonwealth entities can only disclose company-level data with permission of companies. See 3.3.1 below.
4.7 Level of disaggregation	No	Complex	Disaggregated by company, government entity, and revenue stream. Project reporting only when consistent with the United States Securities and Exchange Commission and European Union requirements. See 3.3.3 below.
4.8 Data timeliness	No	Moderate	Pilot process was carried outside of formal EITI membership. 18 month timeline for first report would require strong MSG alignment on scope of reporting.
4.9 Data quality and assurance	Yes/No	Moderate	Data quality covered in pilot. A 'mainstreaming' approach would have to be approved by the Board.

## EITI REQUIREMENT 5 – REVENUE ALLOCATIONS

2016 EITI Standard Requirements	Covered in 2011 Pilot?	Ease of Implementation	Comments
5.1 Distribution of extractive industry revenues	No	Simple	No specific earmarks exist for extractive industries revenues.
5.2 Subnational transfers	No	Complex	The MSG would need to consider how royalties collected by joint authorities would or would not be affected by this requirement.
5.3 Revenue management and expenditures	No	Simple	Optional requirement.
<b>EITI REQUIREMENT 6 – SOCIAL AND ECONOMIC SPENDING</b>			
6.1 Social expenditure by extractive companies	No	Simple	Rated as simple on the basis that social expenditures are unlikely to be material, but note commentary in 3.3.4 related to reporting of infrastructure provisions.
6.2 Quasi-fiscal expenditures	Not Applicable	Not Applicable	Not Applicable
6.3 The contribution of the extractive sector to the economy	Yes	Simple	Currently available.
<b>EITI REQUIREMENT 7 – OUTCOMES AND IMPACT</b>			
7.1 Public debate	Yes	Simple	High levels of routine transparency and accountability mechanisms and institutions (e.g. audit commissions and authorities, corruption commissions, etc.)
7.2 Data accessibility	Yes	Simple	Specific Acts govern protection, release and accessibility of government-held information
7.3 Discrepancies and recommendations from EITI Reports	Yes	Variable	Discrepancies in pilot process were extremely low. Significant expansion of number of reporting entities and revenue streams would change ease of implementation.

2016 EITI Standard Requirements	Covered in 2011 Pilot?	Ease of Implementation	Comments
7.4 Review the outcomes and impact of EITI implementation	No	Moderate	Not covered in original pilot as was outside of formal EITI process. Validation required within two and a half years of joining EITI



### 3.3. KEY GAPS

The following section looks at those potential issues and barriers which are most likely to be significant in their impact on whether Australia (were it to join the EITI) would be able to become an EITI compliant country.

#### 3.3.1. MATERIALITY AND REPORTING

The issue of which revenue streams (and therefore companies and projects) the MSG deems to be 'material' will be the single greatest factor that will determine the level of ease or difficulty of any potential EITI implementation in Australia. Materiality, it should be noted, is not a new issue that has emerged as a result of the adoption of the 2016 EITI Standard – it is an enduring challenge for all countries considering EITI implementation. While it is not a 'gap' per se in that it does not relate to differences between Australia's EITI pilot, and the 2016 EITI Standard, it is included in this Report because it impacts directly on a large number of EITI requirements and potential barriers that were identified.

Multiple stakeholders interviewed for this Gap Analysis noted that Commonwealth, state and territory legislation generally prevents the public disclosure of tax information, with minor exceptions for limited information disclosures for large companies. In order to overcome this any potential EITI program would need to progress through:

1. Setting a materiality level in a way that it captures those companies and revenue streams who are already committed to the EITI and are willing to voluntarily have information about their tax and royalty payments disclosed. This was the approach adopted in the pilot. Appendix C provides a breakdown of which companies covered by the ATO's Corporate Tax Transparency Report 2016-17<sup>13</sup> have also committed to the Tax Transparency Code and which have made global commitments to the EITI.
2. Considering whether changes could be made to legislation in all states and territories, and the Commonwealth, mandating the disclosure of tax and royalty payments on a company-by-company basis above a certain threshold.

Most stakeholders noted that such legislation in states, territories and at the Commonwealth level is not currently being considered in Australia. Because of this, ensuring the ease of implementation of EITI in Australia, particularly around the various elements of Requirement 4, would initially depend on the model adopted during the pilot being continued, or expanded but only in a way that would capture payments from companies that are already publicly committed to the EITI. In addition, as has been noted above, State and Territory level reporting entities would need to be consulted on and agree to any model of EITI beyond that adopted during the pilot.

One way of addressing these challenges, and one which has been used in a number of EITI implementing countries, is to tackle the issues of materiality and voluntary vs. mandatory reporting in several 'waves' over time. In these situations early EITI reporting would be focused on a relatively small number of materially significant companies and government entities who are already willing to voluntarily disclose, as was the case in the pilot. That disclosure would in turn generate greater interest in the initiative and would lead to more and more companies and governments being willing to disclose information. Finally, at the point at which disclosure became the norm, governments might then be able to legislate to compel disclosure from the small number of companies and government entities still not reporting.

It should be noted that this gradualist approach in which voluntary elements are adopted over time and which then become the norm is the same process that international EITI policy itself has adopted. Early EITI policy, for example, did not require disaggregated (i.e. identifying individual company and revenue stream data) data, and that policy only changed at the point at which disaggregated reporting had already become the norm amongst EITI countries.

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<sup>13</sup> Available at: <https://www.ato.gov.au/Media-centre/Media-releases/ATO-releases-corporate-tax-data/>.

### 3.3.2. BENEFICIAL OWNERSHIP

Perhaps the single greatest change introduced by the 2016 EITI Standard is Requirement 2.5 on Beneficial Ownership. At present this is an optional requirement of the 2016 EITI Standard, although all EITI countries are required to have a published roadmap detailing how they intend to meet the requirement. Requirement 2.5 specifies that EITI implementing countries will have to:

- ...ensure that all oil, gas and mining companies that apply for, or hold a participating interest in an exploration or production oil, gas or mining licence or contract in their countries publish the names of their real owners.
- This should include the identity of the owner, i.e. the name, nationality and country of residence. Companies are also encouraged to publish further details such as the date of birth, national identity number, residential address, etc.
- Any politically exposed persons holding ownership in oil, gas and mining projects must be publicly identified.
- The EITI recommends that beneficial ownership information is made available through public registers. At a minimum, the information must be published in the country's EITI report.<sup>14</sup>

Requirement 2.5.f of the 2016 EITI Standard goes on to provide the following definitions and guidance:

*A beneficial owner in respect of a company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity.*

*The multi-stakeholder group should agree an appropriate definition of the term beneficial owner. The definition should be aligned with (i) above and take international norms and relevant national laws into account, and should include ownership threshold(s). The definition should also specify reporting obligations for politically exposed persons.*

*Publicly listed companies, including wholly-owned subsidiaries, are required to disclose the name of the stock exchange and include a link to the stock exchange filings where they are listed...*

As with other aspects of the 2016 EITI Standard, the complexity and level of gap ultimately comes back to the decisions that the MSG makes regarding which companies should report under the EITI, and what thresholds are adopted for the disclosure of beneficial ownership (and this is reinforced in related guidance on the issue).<sup>15</sup> All of the companies which participated in the pilot process, for example, are publicly listed companies and therefore would find meeting the beneficial ownership reporting requirements relatively straight-forward.

In order for beneficial ownership reporting to not be disproportionately burdensome relative to its benefit, the MSG would need to set a pragmatic ownership threshold. By virtue of the extensive superannuation fund holdings in Australia there are technically millions of individual beneficial owners of petroleum, gas and mineral companies in Australia. Those millions would only be captured, however, were no threshold to be set. It should be noted that no EITI implementing country has proposed such an approach.

In the United Kingdom, for example, the definition of beneficial ownership is based on the UK public registry of ultimate beneficial owners of UK Companies; the People with Significant Control (PSCs) register. It was established in June 2016 under the UK Small Business, Enterprise and Employment Act 2015 and is part of the Companies House Register.<sup>16</sup> Most PSCs are likely to be people who hold

<sup>14</sup> Available at: <https://eiti.org/beneficial-ownership>.

<sup>15</sup> Available at: <https://eiti.org/document/guidance-on-how-to-plan-for-beneficial-ownership-disclosure-roadmap#definition>.

<sup>16</sup> Available at: <https://eiti.org/united-kingdom#beneficial-ownership-disclosure>.

more than 25% of shares in the company, more than 25% of voting rights in the company, and/or the right to appoint or remove the majority of the board of directors.<sup>17</sup>

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<sup>17</sup> Companies House, 'People with Significant Control: How to identify and record the people who own or control your company' (2018). Available at: <https://www.gov.uk/government/news/people-with-significant-control-psc-who-controls-your-company>.

An EITI model that set a beneficial ownership threshold at a pragmatic level and combined that with element 2.5.f(iii) of the Standard (above) that requires simply a disclosure of which stock exchange the company is listed on, might in fact only require the beneficial ownership details of a very small number of individuals to be disclosed. Those would be the individuals who hold a large ownership stake in a large (i.e. the materiality threshold adopted by the MSG) but privately owned companies.

What is clear from consultation carried out to inform this report, however, is that how the beneficial ownership provisions of EITI might be implemented are of significant concern to many members of the MSG. These include:

- The need for Australia's approach on beneficial ownership to be driven by a consideration of how it might be implemented across the entire economy, not only in the extractive industries.
- Whether a register of beneficial owners should be publicly available or accessible only to regulatory authorities.
- The level of materiality adopted for reporting entities and beneficial owners.
- The need to reconcile any beneficial ownership approach with privacy provisions, with particular concern around the level of disclosure of 'further details' about individuals.
- How to reconcile any approach adopted by EITI with that of other global standards such as the Financial Action Task Force.
- The administrative and compliance costs of establishing a beneficial ownership system should a system be adopted that extensive disclosure of many beneficial owners across many different companies.

### 3.3.3. PROJECT LEVEL REPORTING

Another significant innovation of the EITI Standard when it was first adopted in 2013 was the requirement for project level reporting. This was a significant change from the previous EITI Rules in which reporting entities would disclose the total amount of revenues paid by and received from a company, even though those revenues may be aggregated across a number of distinct projects or operations – i.e. different mines or petroleum and gas fields. The wording of the 2016 EITI Standard now states:

*The multi-stakeholder group is required to agree the level of disaggregation for the publication of data. It is required that EITI data is presented by individual company, government entity and revenue stream. Reporting at project level is required, provided that it is consistent with the United States Securities and Exchange Commission rules and the forthcoming European Union requirements.*

The issue of project level reporting has subsequently been clarified in several EITI Board papers (35-4-E, 36-4-B). Particularly problematic has been the voiding of United States Securities and Exchange Commission rules in this area, though that should be balanced against the adoption of legislation in Canada (the Canadian Extractive Sector Transparency Measures Act) and the EU (via the Accounting Directive and the Transparency Directive).

During the course of stakeholder interviews to inform this report, the issue of project level reporting being a potential barrier to implementation was raised by many stakeholders. Concerns were raised, for example, about how project level reporting might work in the case of joint ventures, or where projects extract resources from multiple different sites which are then blended to produce a specific end grade. Australia's MSG and the technical working group of the MSG have openly discussed the issue.

The EITI Board has produced guidance on the issue (see Guidance Note 29<sup>18</sup>) that reaffirms that EITI countries must carry out project level reporting, but that the definition of 'project' should be defined by each country's MSG, taking into account consideration of:

- What definitions of 'project' are used in other jurisdictions?
- The existing definitions of 'project' under existing legislation.
- The definition of project that is used to form the basis of determining payments liabilities to a government entity.
- What are the revenue streams that are covered by the EITI program and which are assessed on an entity basis (e.g. corporation tax) and which are assessed on a project basis (e.g. minerals royalties)?

The guidance then stipulates that the discussion and decision-making of the MSG in considering the definition of a project should be clearly documented. It should be noted that clarification of the project-level reporting requirements are included in the proposed changes to the EITI Standard (see Table 1 )

In addition to the above guidance the International EITI Secretariat was consulted as part of this Gap Analysis. With the proviso that the Secretariat can guide, recommend and provide advice, but cannot determine EITI policy, one suggestion that was made by the Secretariat would be for Australia to potentially adopt multiple definitions of 'project', noting that the legislation would be different across the various states, territories and Commonwealth.

The issue of project level reporting is an added complexity compared to the reporting carried out under the earlier EITI pilot exercise. In that regard, it is beyond the scope of this Gap Analysis to determine whether the benefits generated by this level of reporting are commensurate with the additional efforts that would be required to implement it. What is clear, however, is that the extent of the gap and the ease or complexity of addressing the gap would return to the decisions made by any future MSG regarding the number of government and corporate reporting entities (and their willingness to participate in EITI); and the ability of any future MSG to come to a satisfactory agreement on the definition of what would constitute a 'project'. In doing so it will be particularly important for the MSG to consider the definitions of project adopted by the EU.

### **3.3.4. INFRASTRUCTURE PROVISIONS AND TRANSPORT REVENUES**

Two requirements of the 2016 EITI Standard – 4.3 and 4.4 – have the potential to constitute a moderate gap when compared with the earlier pilot exercise. Neither requirement was raised as a concern in any of the stakeholder interviews that were carried out to inform this Gap Analysis.

Requirement 4.3 requires the disclosure of agreements, terms and values of any infrastructure provision or barter agreement. This requirement became pertinent at the global EITI level in countries where licences or permits for resources were granted in return for the construction of key infrastructure such as ports, roads, railways, public buildings, etc.

This is particularly the case with dual use infrastructure i.e. assets that are built to serve an extractive project, but which are able to be used by others. Correspondingly, a case could also be made that there are infrastructure provisions that flow in the other direction – e.g. the investment by government entities in single or dual use infrastructure that enables a company to develop an extractive resource.

The relevance of this requirement will (like most other aspects of implementation) be determined by whether a future MSG determines whether any such provisions are material or not. Consideration of how or whether to report against this provision would likely also overlap with what decisions were made regarding Requirement 6.1 on social expenditures by companies.

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<sup>18</sup> Available at: [https://eiti.org/sites/default/files/documents/guidance\\_note\\_29\\_on\\_project-level\\_reporting.pdf](https://eiti.org/sites/default/files/documents/guidance_note_29_on_project-level_reporting.pdf) . See also 'Project Level Reporting Factsheet', available at: [https://eiti.org/sites/default/files/documents/eiti\\_factsheet\\_project\\_level\\_reporting\\_en\\_web.pdf](https://eiti.org/sites/default/files/documents/eiti_factsheet_project_level_reporting_en_web.pdf).

Requirement 4.4 relates to the reporting of transportation revenues. This typically relates to revenues paid by petroleum and gas pipeline companies. Again the principle consideration is whether such revenues are material or not. It is unclear whether this issue has been considered in the context of EITI in Australia as it was not raised in the stakeholder consultations.

## 3.4. OPPORTUNITIES

### 3.4.1. MAINSTREAMING

While the scope of this Gap Analysis has principally been to identify gaps between Australia's previous EITI pilot and the 2016 EITI Standard, it is worth noting there are many aspects of the revised Standard that require the disclosure of information that is already routinely and automatically disclosed in Australia. The requirements that would fall in this category would be:

- Requirements 2.1, 2.2, and 2.3 relating to the disclosure of the legal framework and fiscal regime; licence allocations; and registers of licences.
- Requirements 3.1, 3.2 and 3.3 relating to the disclosure of information related to exploration, production and exports.
- Requirements 5.1 and 5.3 relating to revenue allocations.

There are also a number of areas of the 2016 EITI Standard that have been strengthened and expanded, but which are only relevant to countries in which the government is a direct participant or investor in the petroleum, gas and mineral resources sector, and which are likely irrelevant in Australia. This would include Requirements 2.6 (state participation), 4.2 (production share), 4.5 (SOE transactions), and 6.2 (quasi-fiscal expenditures).

Two aspects of the 2016 EITI Standard also provide opportunities that might benefit any potential implementation of the EITI in Australia. The first of those is the growing push around systemic or automatic disclosure, also known as mainstreaming. This is currently outlined in Requirement 4.9.c which states:

*Where...there is (i) routine disclosure of the data required by the EITI Standard in requisite detail, and (ii) that the financial data is subject to credible, independent audit, applying international standards, the MSG may seek Board approval to mainstream EITI implementation in accordance with the 'agreed upon procedure for mainstreamed disclosures'.*

In addition to the above requirement, significant guidance on systemic disclosure has now been developed by the EITI Secretariat.<sup>19</sup> Several countries have carried out feasibility studies to determine the ease of mainstreaming EITI implementation, and Norway has successfully applied to the EITI Board for their EITI program to be considered 'mainstreamed'.

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<sup>19</sup> Available at: <https://eiti.org/systematic-disclosure>.



## 3.4.2. ADAPTED IMPLEMENTATION

The second aspect of the 2016 EITI Standard that might create a potential opportunity for any future EITI implementation in Australia is that related to Adapted Implementation. EITI Requirement 8.1 states:

*Should the MSG conclude that it faces exceptional circumstances that necessitate deviation from the implementation requirements, it must seek prior EITI Board approval for adapted implementation. The request must be endorsed by the MSG and reflected in the work plan. The request should explain the rationale for the adapted implementation.*

While some of the applications that have been made for Adapted Implementation are not useful in the Australian context (e.g. Ukraine's successful application to not be required to report data related to areas in which are under occupation), there are some that are of interest:

- Norway's mainstreaming application was approved under the Adapted Implementation requirement. In 2017, the EITI Board agreed that Norway's open and consultative approach to the governance of the sector, by means of their annual stakeholder meetings to discuss the disclosure of information by the Standard, could provide the oversight function traditionally ascribed to MSGs under the Standard.<sup>20</sup>
- Sao Tome and Principe successfully applied on the grounds that it did not fully control activities of companies in the Joint Development Zone (an area co-governed with Nigeria) and that Joint Development Authority that oversees the zone.
- The United States was an implementing country member of the EITI between 2014 and 2017, and during that time adopted a version of EITI which excluded State-level reporting – an adaptation that was considered and approved by the EITI Board. The US ceased its domestic implementation of EITI but remains a supporting country member of the Board.<sup>21</sup>
- Argentina's membership of EITI was confirmed in February 2019. Its application included an adapted implementation approach in which the first phase of reporting would focus on national level government institutions, with (sub-national) provincial governments being considered during a second phase of implementation.<sup>22</sup>

Although not strictly related to Adapted Implementation, it is also worth noting two other recent decisions by the EITI Board:

- The decision in 2018 regarding Germany's model of EITI implementation. The decision confirms the right of national MSGs to set materiality levels at a high level so reduce the number of reporting entities.<sup>23</sup>
- The decision in 2017 regarding the Philippines' model of EITI implementation. The decision confirmed the Philippines' successful validation, despite the refusal of a major coal company to participate and report under the EITI framework.<sup>24</sup>

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<sup>20</sup> Available at: <https://eiti.org/news/norway-tests-out-new-approach-to-stakeholder-engagement>.

<sup>21</sup> Available at: <https://eiti.org/united-states-of-america>.

<sup>22</sup> Available at: <https://eiti.org/news/eiti-board-approves-argentinas-application-to-join-extractive-industries-transparency>.

<sup>23</sup> Available at: <https://eiti.org/BD/2018-31>.

<sup>24</sup> Available at: <https://eiti.org/validation/philippines/2016>.

### 3.4.3. CURRENT TAX TRANSPARENCY REPORTING

The ATO's corporate transparency reports are a notable area of disaggregated company-by-company reporting of corporation tax. Australian public and foreign owned corporate tax entities with a total income of \$100m or more, and Australian private companies with a total income of \$200m or more, have data relating to their total income, taxable income, and tax paid published by the ATO. In addition, any Australian taxpayer with \$1 or more of a petroleum resource rent tax liability will have that data published by the ATO.

Appendix C provides a snapshot of the upstream petroleum, gas and mineral resources companies captured in the most recent round of reporting and also notes whether those companies are signatories of the Tax Transparency Code and/or are corporate supporters of the EITI globally.<sup>25</sup>

### 3.5. OTHER RELEVANT TRANSPARENCY INITIATIVES

Several other relevant transparency initiatives have been identified which Australia is a party to by Commonwealth or State and Territory governments that are relevant to the 2016 EITI Standard requirements and could potentially support addressing a key gap. These include the Tax Transparency Code, Financial Action Task Force, the Open Government Partnership, and the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes.

#### Tax Transparency Code

The Tax Transparency Code (TTC) is a set of principles and minimum standards to guide public disclosure of tax information by businesses. Adoption of the TTC is currently voluntary and intended to complement Australia's existing tax transparency measures. The TTC is designed to encourage greater transparency within the corporate sector and to enhance the community's understanding of the corporate sector's compliance with Australia's tax laws.

Companies (including entities treated as companies for Australian tax purposes) that are medium or large businesses are encouraged to adopt the TTC. The information to be disclosed under the code is dependent upon the size of the business. The information disclosed includes a reconciliation of accounting profit to tax payable and tax strategy among other key tax transparency indicators. The ATO does not review or provide any assurance on the accuracy of the information contained in these reports. It is, nonetheless a useful proxy for the level of commitment to the principles of tax transparency. More details of which major tax payers are also committed to the TTC can be found in Appendix C. The TTC is especially relevant to Requirements 1.2<sup>26</sup> and 4.1<sup>27</sup> of the 2016 EITI Standard.

#### Financial Action Task Force

The Financial Action Task Force (FATF) is an inter-governmental body which represents most major financial centres globally. The objectives of the FATF are to set standards and promote effective measures to tackle money laundering, terrorist financing and other related threats. The FATF is therefore a "policy-making body" which works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas. Australia has been a member of the FATF since 1990. Australia's consideration of beneficial ownership issues is being progressed in part through its engagement with the FATF. The FATF is especially relevant to Requirement 2.5<sup>28</sup> of the 2016 EITI Standard.

<sup>25</sup> Available at: <https://www.ato.gov.au/Business/Large-business/In-detail/Tax-transparency/Tax-transparency-reporting-of-entity-tax-information/>

<sup>26</sup> Requirement 1.2: Companies must be fully, actively and effectively engaged in the EITI process. Available at: <https://eiti.org/document/standard>.

<sup>27</sup> Requirement 4.1: Comprehensive disclosure of taxes and revenues. Available at: <https://eiti.org/document/standard>.

<sup>28</sup> Requirement 2.5: Beneficial ownership. Available at: <https://eiti.org/document/standard>.

## The Open Government Partnership

The Open Government Partnership (OGP) brings together government reformers and civil society leaders to create action plans that make governments more inclusive, responsive and accountable. To become a member of the OGP, participating countries must endorse a high-level Open Government Declaration, deliver a country action plan developed with public consultation, and commit to independent reporting on their progress going forward. Australia joined the OGP in 2013. Australia's second National Action Plan 2018-20 comprises eight focused commitment to help enhance transparency, accountability and public engagement. See Commitment 1.3 for Australia's commitment to the EITI and the Government's public statement of its intention to implement the EITI.<sup>29</sup>

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<sup>29</sup> Available at: <https://ogpau.pmc.gov.au/commitment/australias-first-open-government-national-action-plan-2016-18/nap1-commitment-dashboard-1>.

## 3.6. FINDINGS

The scope of this Gap Analysis requires a difficult balance between identifying practical measures that would facilitate EITI implementation in Australia, while at the same time making no recommendations on whether implementation should occur. For that reason it is important to reiterate here that the following findings and suggestions are entirely subject to whether Australia decides to join the EITI. They should in no way be considered a recommendation as to whether Australia should join.

The first key suggestion on how an Australian EITI programme might be facilitated is that there should be significant investment in building the capability of any future multi-stakeholder group. Virtually all of the eight aspects of the EITI Standard highlighted below require the multi-stakeholder group to come to an agreement on the breadth and depth of EITI disclosure. The experience of other countries implementing the EITI is that the positive or negative dynamics of these groups, which are designed to act as decision-making bodies (not consultative groups), will ultimately determine whether a country is successful in its eventual validation process.

In other EITI countries the kind of capacity building and support has included:

- Supporting the development of wider constituency groups outside of the MSG so that government, company and civil society organisations are able to effectively represent the views of those wider groups, as well as secure their buy-in to facilitate implementation.
- The provision of training and briefings on aspects of industry operations, regulation and taxation.
- The provision of independent research and analysis on various aspects of or approaches to EITI implementation.
- The provision, if necessary, of financial support to enable full attendance at full MSG meetings or meetings of technical working groups.

This kind of support would have budget implications for any future EITI implementation, in addition to the costs of gathering and disclosing EITI-related information. Those costs, while not considered as part of this Gap Analysis, would fall on government and to a lesser degree on companies that fall within the materiality threshold agreed by the MSG.

The second key suggestion for facilitating EITI implementation in Australia would be the need to recognise the many unique and complex features of Australia's petroleum, gas and mineral resources sectors, and how they are governed. This recognition may require a first round of reporting that is very tightly scoped in terms of the number of reporting entities and revenue streams captured by the process – i.e. similar to the scope adopted in the pilot process. Such an approach would involve EITI in Australia being developed initially as a voluntary (i.e. non-legislative) instrument. It would likely need to be accepted, however, that the scope would be revisited, revised and likely expanded after the first round of reporting. This approach to evolving the breadth and depth of reporting over time is very common in many EITI countries.

Finally, it would be important to have a model of EITI implementation complete (i.e. agreed by the multi-stakeholder group) or as near complete as possible at the point of application to join the EITI. This model would in particular need to identify those elements of Australia's petroleum, gas and mineral resources sector governance that:

- requires international Board approval as an 'adapted implementation' model;
- constitutes 'systemic disclosure' and therefore may not require ongoing, regular separate EITI reports; and
- goes beyond any current aspects of the EITI Standard.

Beyond the above suggestions, it is important to note in summary the eight areas in the 2016 EITI Standard that would likely pose some degree of challenge to any potential implementation of the initiative in Australia. Those are as follows:

- **MSG Oversight:** The EITI requires effective MSG oversight that involves active and effective participation of government, companies and civil society, with each constituency being treated as a partner. The Standard does not mandate an optimal number of MSG members or structure.

Currently, the Australian MSG includes 21 members, seven from each sector. Although not a new Requirement, the ability of the MSG to reach rapid agreement on the model of Standard to be adopted so as to successfully meet the reporting and validation timelines (Requirement 1 of the 2016 EITI Standard).

- **Identifying beneficial owners:** All implementing countries must ensure that companies disclose their beneficial owners. As a first step, countries will publish roadmaps outlining the activities and preparations that are considered necessary in order to ensure full implementation of the beneficial ownership requirements by 2020 (Requirement 2.5 of the 2016 EITI Standard).
- **Comprehensive disclosure of taxes and revenues:** The EITI requires a comprehensive reconciliation of company payments and government revenues from the extractive industries. The overarching thresholds that define which reporting entities (both companies and government agencies) would be deemed 'material'. Implementation of the EITI, without enforceable legislation, will only be possible if material petroleum, gas and mineral resources companies choose to disclose their taxes and revenues (Requirement 4.1 of the 2016 EITI Standard).
- **Infrastructure provisions, barter arrangements and transportation revenues:** Consideration of whether any aspects of Australia's petroleum, gas and mineral resources sectors might prompt EITI requirements related to infrastructure provisions and transportation revenues for activities downstream of the extractive activity. The MSG would need to gain a full understanding of: the terms of the relevant agreements and contracts. The EITI 2014 pilot did not include revenues from the transportation of oil, gas and minerals, pipeline companies or any payments made to build and/or support infrastructure (Requirement 4.3 and 4.4 of the 2016 EITI Standard).
- **Subnational transfers:** The EITI 2014 pilot did not address direct payments, within scope of the agreed benefit streams, from companies to subnational government entities. The approach taken to disclosing payments made to States and Territories, as well as any other revenues that might fall under the requirements related to subnational transfers (Requirement 4.6 and 5.2 of the 2016 EITI Standard).
- **Project-level reporting:** This new EITI requirement requires the MSG to agree to the level of disaggregation for the publication of data. In particular the MSG needs to decide what approach will be taken to agreeing a definition (or definitions) of what constitutes a 'project' for the purposes of implementing the new requirements related to project-level reporting (Requirement 4.7 of the 2016 EITI Standard).
- **Mainstreaming:** Should the Australian MSG conclude that it faces exceptional circumstance that necessitate deviation from the EITI implementation requirements, the MSG must seek prior EITI Board approval for adapted implementation. The willingness of the EITI Board to consider some aspects of the 2014 pilot model that would now fall under EITI requirements related to continuous or automated disclosure (Requirement 7.2 and 8.1 of the 2016 EITI Standard).
- **Securing full company disclosure:** Whether those reporting entities were willing to participate in the EITI voluntarily, or if legislation would need to be passed in order to compel them to participate. At present, with the exception of large payers of corporate tax, Commonwealth and state legislation prohibits the disclosure of individual company tax and royalty payments (multiple Requirements of the 2016 EITI Standard).



# APPENDICES





# APPENDIX A: STAKEHOLDER CONSULTATIONS

The following organisations were consulted in the process of developing this Gap Analysis.

*Table 4: Stakeholder Consultation Representatives and Organisations*

Stakeholders
Australian Petroleum Production Exploration Association (APPEA)
Australian Taxation Office
BHP
CAER – Responsible Corporate Analysis
Construction, Forestry, Mining & Energy Union
Department of Foreign Affairs and Trade
Inter-Departmental Committee on EITI (Included representatives from: Australian Taxation Office, The Treasury, Department of Foreign Affairs and Trade, Department of Prime Minister and Cabinet, Department of Industry, Innovation and Science)
Minerals Council of Australia
Newcrest
Origin Energy
Publish What You Pay
Queensland Treasury
Rio Tinto
Shell Australia
South Australia Department of Energy and Mining
The Australia Institute
The EITI International Secretariat
The Treasury
Transparency International Australia
Western Australia Department of Mines, Industry Regulation and Safety
Australian Petroleum Production Exploration Association (APPEA)
Australian Taxation Office
BHP

# APPENDIX B: KEY SOURCES

Table 5: Key Sources

Title	Source
EITI Multi-Stakeholder Group Report to Government, 2014	Independent Administrator Report
The EITI Standard, 2016	EITI Website
Technical Working Group Update to Australian MSG, June 2018	EITI Australian MSG
Note to Australian MSG Technical Working Group, February 2018	Australian Petroleum Production Exploration Association (APPEA)
EITI Beneficial Ownership Requirements	The Treasury
Beneficial Ownership Working Group Terms of Reference, November 2017	EITI Australian MSG
Technical Working Group (focusing on Project Level Report) Terms of Reference, November 2017	EITI Australian MSG
EITI Australia MSG Meeting Minutes, November 2016	EITI Australian MSG
EITI Australia MSG Meeting Minutes, April 2017	EITI Australian MSG
EITI Australia MSG Meeting Minutes, November 2017	EITI Australian MSG
EITI Australia MSG Meeting Minutes, June 2018	EITI Australian MSG
Implementation of the EITI Regulation Impact Statement, March 2016	Department of Industry, Innovation and Science
Increasing Transparency of Beneficial Ownership of Companies, February 2017	The Treasury
EITI Board Papers	EITI Website
EITI Board Meeting Minutes	EITI Website
Should Australian sign up for the EITI?	Dr Kathryn Sturman, University of Queensland
Overview of proposed changes to EITI Requirements	EITI Website

# APPENDIX C: MAJOR TAXPAYERS AND TRANSPARENCY

Table 6: Major Taxpayers and Transparency (2016-17)<sup>30</sup>

Name	Corporate Supporter of EITI	Voluntary TTC Signatory 2016-17
<b>Alcoa Australia</b>	No	Yes
<b>Anglo American Australia Limited</b>	Yes	Yes
<b>AngloGold Investments Australia</b>	Yes	No
<b>Australia Pacific LNG Pty Ltd</b>	No	Yes
<b>Barrick (Australia Pacific Holdings) Pty Ltd</b>	Yes	No
<b>BG International (Aus) Pty Limited (Shell)</b>	Yes	Yes
<b>BHP Billiton Ltd</b>	Yes	Yes
<b>BM Alliance Coal Operations Party Ltd</b>	Yes	Yes
<b>BP Regional Australasia Holdings Pty Ltd</b>	Yes	Yes
<b>Chevron Australia Holdings Pty Ltd</b>	Yes	Yes
<b>Conocophillips Australia Gas Holdings Pty Ltd</b>	Yes	No
<b>ENI Australia BV</b>	Yes	No
<b>Esso Australia Resources Pty Ltd - Bass Strait (ExxonMobil)</b>	Yes	Yes
<b>Evolution Mining Ltd</b>	No	Yes
<b>Exxonmobil Australia Pty Ltd</b>	Yes	Yes

<sup>30</sup> The companies shown here have been sourced from the ATO's Corporate Tax Transparency Report for 2016-17. The purpose of the table is to provide a high-level indication of the level of existing corporate support for the EITI and/or the voluntary TTC. It should not be considered to be a full and/or comprehensive list of all companies operating in Australia that support the EITI and/or have committed to the TTC. Some extractive companies have been excluded from this table. For example companies which are significant electricity generators and distributors (e.g. AGL) have been removed, even though they are involved in the extraction of resources. Other entities have been excluded where the majority of their revenue is from downstream operations (e.g. petrol and diesel retailers). Should EITI be implemented in Australia the question of which companies to include or exclude in reporting, and how to treat companies with a mixture of upstream and downstream operations, would have to be addressed by the EITI MSG.

Name	Corporate Supporter of EITI	Voluntary TTC Signatory 2016-17
<b>Fortescue Metals Group Limited</b>	No	Yes
<b>Glencore Holdings Pty Limited</b>	Yes	No
<b>Hydro Aluminium Australia Pty Limited</b>	Yes	No
<b>Iluka Resources Limited</b>	No	Yes
<b>Independence Group NL</b>	No	Yes
<b>Inpex Australia Pty Ltd</b>	Yes	No
<b>JX Nippon Oil &amp; Gas Exploration (Australia) Pty Ltd</b>	Yes	No
<b>Liberty Oil Holdings Pty Ltd (ExxonMobil)</b>	Yes	Yes
<b>Macquarie Coal Marketing Pty Limited</b>	No	Yes
<b>Mitsubishi Australia Limited</b>	Yes	No
<b>MMG Australia Limited</b>	Yes	No
<b>Newcrest Mining Ltd</b>	Yes	Yes
<b>Newmont Australia Holdings Pty Ltd</b>	Yes	Yes
<b>Northern Star Resources Ltd</b>	No	Yes
<b>Origin Energy Ltd</b>	No	Yes
<b>Oz Minerals Limited</b>	No	Yes
<b>Rio Doce Australia Pty Ltd</b>	Yes	No
<b>Rio Tinto Ltd</b>	Yes	Yes
<b>Santos Limited</b>	No	Yes
<b>Shell Energy Holdings Australia Limited</b>	Yes	Yes
<b>South32 Limited</b>	Yes	Yes
<b>St Barbara Limited</b>	Yes	No
<b>Sumitomo Australia Pty Ltd</b>	Yes	No
<b>Total E&amp;P Australia</b>	Yes	No
<b>Woodside Petroleum Ltd</b>	Yes	Yes



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