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Environment Policy
Department of Environment and Natural Resources
GPO Box 3675
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via email: environment.policy@nt.gov.au

RE: Environmental Regulatory Reform Discussion Paper

The Australian Petroleum Production & Exploration Association (APPEA) is the peak national body representing the oil and gas exploration, development and production industry in Australia. The Association's 60 full members account for more than 95 per cent of Australia's petroleum production and most exploration. APPEA's members also include many companies providing services to the industry.

APPEA welcomes the opportunity to comment on the *Environmental Regulatory Reform Discussion Paper* (the discussion paper). APPEA's submission reflects feedback provided by members and should be read in conjunction with submissions provided by individual members.

Too often a false conflict is imagined between economic development and environmental protection. The oil and gas industry is committed to delivering investment, jobs and other public benefits while at all times protecting the environment.

Sustainable development of the Territory's onshore natural gas resources can deliver the new jobs and investment the Territory needs. In 2015, Deloitte Access Economics research found that developing the Territory's substantial shale gas resources could create up to 6300 new long-term jobs and generate up to \$1 billion in additional NT Government revenue over the next 20 years.

The oil and gas industry, Traditional Owners and pastoralists have been working together in the NT for many years. We are proud of our long track record of working with pastoralists and other landholders. Experience shows that when landholders and explorers talk about their plans and activities, identify issues and work together to find solutions, everybody benefits. We will continue to focus on building relationships based on trust and mutual respect.

The NT gas industry supports the work now being done to finalise a world - class regulatory framework for the Territory's onshore gas industry.

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APPEA's Principles of Environmental Regulation

APPEA considers that governments at all levels should aim to establish environmental regulatory frameworks based on the following principles:

- Clear objectives and transparent oversight:
 - The rationale for any regulation must be well defined and understood and a net benefit clearly identified. Regulation may not always be the most effective policy solution or mechanism to manage risk.
 - The processes for implementing regulation must be transparent, clear, uniform and predictable.
 - Regulation objectives meet environmental as well as economic and social objectives.
 - Regulation is constantly reviewed to assess its ongoing relevance.
- Underpinned by sound science and evidence:
 - An evidence-based approach should be adopted based on rigorous and reliable information and centred on well-defined risks and environmental values.
 - Information, science and evidence used to underpin regulations should be transparent.
- Risk-based and focused:
 - Objective and risk-based regulation should be adopted rather than prescriptive standards.
 - This allows a flexible and dynamic approach adapting to changing circumstances (technology, environments, science and financial arrangements), and allows actions to be taken to mitigate risk in conditions of scientific uncertainty rather than stopping or banning projects or activities.
- Appropriate to the nature and scale of the project:
 - Regulation should be focussed on what is appropriate to the 'nature and scale' and to the risks and impacts from the activity being regulated.
 - The ongoing compliance activity and costs imposed on governments and proponents are appropriate and proportional to the risks and impacts.
- Transparent processes supported by guidance on regulator expectations.

Recent changes to the NT's petroleum regulatory framework, such as the introduction of the *Petroleum (Environment) Regulations 2016*, are a positive move and represent best practice regulation developed with substantial input from independent experts¹.

Comments on the Discussion Paper

APPEA provides the following comments on specific sections and/or questions posed in the Discussion Paper.

¹ See: <https://dpir.nt.gov.au/news/2016/march/petroleum-environment-regulations>

Strategic Environment Assessments (SEA's)

The petroleum industry is keen to work with the Department and the Environmental Protection Authority to understand how strategic environmental assessment (SEA) could apply to our activities.

In the Northern Territory, petroleum operators have worked together to conduct bioregional assessments in areas where common environmental traits are found². This can be a cost effective way to obtain large scale environmental baseline information while minimising the need for multiple on-ground interactions with the local environment.

The challenge for our industry, as with many industries, is that individual proponents often work on different development schedules. Any initiation of an SEA by the EPA on the petroleum industry or over specific regions needs to take this account.

Encouraging public participation

APPEA notes that the recently introduced *Petroleum (Environment) Regulations 2016* require stakeholder engagement to be conducted as part of the environmental approvals process. One challenge identified by stakeholders in the development of the regulations is the publication of personal information in stakeholder engagement summaries and reports. Publication of identification details of relevant stakeholders consulted with is a privacy concern for some stakeholders. Unless identifying details of individual stakeholders are removed from published documents, there may be the unintended consequence that some stakeholders chose not to participate in engagement activity.

In respect to Indigenous communities, APPEA's members primarily engage with host Traditional Owners in conjunction with their respective Land Councils. Exploration Agreements, and ultimately Production Agreements, will vary and often carry commitments about how the engagement and relationships is carried forward for implementing, managing and monitoring the commitments of said agreements. In many cases, companies and Traditional Owners carry these relationships forward without statutory involvement of the Land Councils.

Improving Environmental outcomes and accountability

APPEA understands that introduction of a schedule of development types that will require an environmental approval (and therefore environmental assessment) is intended to cover large developments like LNG facilities, facilities where environmental regulatory gaps occur and activities where community expectations lead to the need for assessment.

It is vital that in developing the proposed schedule, the Minister takes into the account the principle of assessment based on the scale and risk of the proposed activity. In respect to onshore petroleum activities that use hydraulic fracturing as part of the drilling process, APPEA notes that the WA EPA recognised that small scale, proof-of-concept proposals were unlikely to have a significant effect on

² Origin submission to the Scientific Inquiry into Hydraulic Fracturing of Onshore Unconventional Reservoirs in the Northern Territory, p 51, available at: <https://frackinginquiry.nt.gov.au/?a=424842>

the environment, and that the EPA decided not to formally assess these proposals³. The existing oversight through the *Petroleum (Environment) Regulations 2016*, is the appropriate legislative instrument for regulating the environmental impacts of exploration and appraisal activities in the NT.

Making the best use of our community's eyes and ears

APPEA recognises the remoteness of the NT and the limited resources available to the Government to adequately gather information on developments in remote parts of the Territory. The industry considers that robust stakeholder engagement processes that include relevant and affected parties will negate the need for third party referrals by organisations like the Environment Centre NT (ECNT), Amateur Fishermen's Association NT (AFANT) or the NT Cattlemen's Association (NTCA) or indeed APPEA to make a referral to the NT EPA where there is concern or questions on whether a development/works has an environmental approval.

Introducing review (appeals) processes

APPEA considers that during the assessment and appeals process, legislation should clearly state that only comments directly related to the Territory Environmental Objectives (TEO's) will be taken into consideration by the EPA and the Minister. With this in mind, only proponents (or applicants) and directly affected stakeholders should be allowed to appeal decisions based on the TEO's.

Experience in other jurisdictions shows that many third parties use review and appeal rights to disrupt or delay appropriately approved tourism, agriculture and resource activities⁴. The Northern Territory Government has an opportunity to implement sensible review processes that balance the environment and the economy.

Conclusion

APPEA appreciates the opportunity to contribute to this aspect of the NT's environmental reform process. The development of a modern environmental regulatory framework for the NT is an important step in building community confidence and providing the business community with a stable regulatory environment. The above issues and related matters are explored in more detail in APPEA's submission into the Northern Territory's Inquiry into Hydraulic Fracturing⁵.

³ See: www.epa.wa.gov.au/sites/default/files/Policies_and_Guidance/EPB22-Fracking-171214.pdf

⁴ See: www.couriermail.com.au/news/queensland/news-story/44195381295203d8c14ba7f8edbb3216

⁵ See: <https://frackinginquiry.nt.gov.au/?a=423966>



Please contact Mr Adam Welch, Senior Policy Adviser, on 08 9426 7205 or awelch@appea.com.au should you or your staff wish to discuss any aspect of APPEA's comments.

Sincerely,

Matthew Doman

Director – South Australia/Northern Territory