Minister for Energy and Resources

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Mr Phillip Weickhardt
Review of Regulatory Burden on the
Upstream Petroleum (Oil and Gas) Sector study
Productivity Commission
Locked Bag 2, Collins St East
MELBOURNE VIC 3000

Dear Commissioner,

SUBMISSION ON DRAFT REPORT - *REVIEW OF REGULATORY BURDEN ON THE UPSTREAM PETROLEUM (OIL AND GAS) SECTOR*

The Victorian Government made a detailed submission to the Issues Paper released in July 2008. I would like to provide further comment and clarification on issues raised in the Productivity Commission's Draft Research Report, *Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector*, including the establishment of a national offshore petroleum regulator, carbon capture and storage regulation and the Commonwealth's retention lease model.

A National Offshore Petroleum Regulator (NOPR)

I reiterate the Victorian Government support, in-principle, for the establishment of a national offshore petroleum regulator (NOPR). A NOPR that adopts the regulatory functions of other federal and state agencies (including the Department of Resources Energy and Tourism, Geoscience Australia and the Joint and Designated Authorities) and incorporates the National Offshore Petroleum Safety Authority (NOPSA) presents the greatest opportunity to reduce regulatory burden on the upstream petroleum sector.

Ideally the NOPR would undertake the entire administration of the *Offshore Petroleum Act 2006* and of the "mirror" State and Territory Acts. This would include all upstream petroleum title award, resource management, pipeline and environmental regulation in Commonwealth and coastal waters. As previously submitted, this would remove the inter-agency delays and inconsistencies and could lead to time savings of about 50% for the award of titles. A phased approach, whereby NOPR initially administers Commonwealth waters with the administration of State waters to be phased in at a later date, is a sensible option.

If the NOPR model is not supported

Adopting a lesser model than the NOPR has the potential to lead to many of the same inefficiencies that exist in the current Joint Authority/Designated Authority (JA/DA) model.

In the event that the full NOPR model is not recommended, I encourage you to consider recommending that responsibility for well integrity remain with the DA or the body responsible for resource management and that responsibility for environmental compliance remain with the DA or the body responsible for environmental assessment.

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(i) Well integrity

Well integrity includes the prevention of blowouts while drilling and subsequently the integrity of the well bore to avoid leakage up the bore to surface or contamination of aquifers.

The integrity of a well, including many of the sea bed and rig facilities, depends on well design parameters, particularly in relation to casing design, reservoir pressure prediction, mud weight control during the drilling process and cement chemistry and logging following completion of the drilling. These design parameters are in the realm of resource management and therefore, currently, in the realm of the DA.

NOPSA's key role is occupational health and safety. While NOPSA has the requisite skills and expertise to regulate pipeline integrity, it does not have reservoir engineering skills required to assess well integrity. If well integrity were to be moved to NOPSA, then NOPSA would be required to acquire reservoir engineering skills just for well design, leaving the broader resource management to the DA. It would be an inefficient use of scarce skills. Contrary to what was reported in the recent NOPSA review, the Victorian DA currently holds reservoir engineering expertise and is well placed to administer resource management.

The interface between safety (the responsibility of NOPSA) and well integrity (currently the responsibility of the DA) in approving well operations can most efficiently be managed by a memorandum of understanding that clarifies roles and responsibilities.

(ii) Environmental Compliance

Environmental compliance is essentially about compliance with the environment plan for a particular petroleum activity. Compliance typically requires understanding and knowledge of complex environmental issues. Separating environmental assessment from environmental compliance will require duplication of knowledge and understanding of the same issues. It would also result in additional briefings and clarification of environmental issues from the body responsible for environmental assessment (currently the DA) to NOPSA, where in many cases local knowledge is critical.

While it is acknowledged that there are a number of synergies between safety and environment considerations associated with petroleum projects, joint audits carried out by NOPSA and the Victorian DA indicate there is no efficiency gain achieved by combining safety and environment considerations for audit purposes. Often, safety and environment considerations are competing for the same company personnel at the same time during offshore audits, which makes the audit process less efficient than if conducted separately. For these reasons, keeping environmental assessment and environmental compliance together under one authority is important, either in NOPSA or in a body like the DA.

It should be noted that environmental issues can impact upon resource management. For example, the flaring of methane impacts upon both environment and resource management. This points to the fact that the integration of upstream petroleum management under one body is the most efficient outcome.

Carbon Capture and Storage (CCS) Regulations

The Productivity Commission recommends mirroring amendments from the Commonwealth's *Offshore Petroleum Amendment (Greenhouse Gas Storage) Act 2008* in relevant State legislation to create nationally consistent legislation for onshore and offshore carbon capture and storage (CCS). Victoria's onshore legislation is consistent with the high level regulatory principles endorsed by the Ministerial Council on Minerals and Petroleum Resources. However, a key difference exists between Victoria's onshore regulatory framework and the Commonwealth legislation in relation to the rights of current holders of petroleum titles.

The Commonwealth Act includes a range of changes to the current system of petroleum titles to provide for overlapping property rights between petroleum titleholders and CCS titleholders. These provisions provide petroleum titleholders with an advantage over any potential non-petroleum CCS proponents when applying for an exploration permit.

Victoria's position, which is reflected in the State's legislation, is that legislation should provide a level playing field for both CCS and petroleum proponents. The Victorian Government considers that an equitable and competitive market for access to the CCS resource is essential. Whilst Victoria generally supports nationally consistent CCS legislation, it has a philosophical difference to the Commonwealth on the treatment of petroleum titleholders compared to potential CCS proponents.

Retention Lease Model

While extending retention lease terms to 15 years would reduce regulatory burden and uncertainty for industry and is supported, allowing renewals of 10 years does not provide a sufficient incentive to make a significant petroleum discovery commercial. After the minimum of 15 years that follows from a sub-commercial discovery, if a company is unable to commercialise the resource, then it should be surrendered and offered to the industry on the basis that development proceeds.

In order to maximise the value of our resource, governments should continue to have the option to review a project, in appropriate circumstances, during the term of the lease.

For further information on any of these issues, please do not hesitate to contact Dr Richard Aldous on telephone (03) 9658 4411 or richard.aldous@dpi.vic.gov.au.

Yours sincerely,

Peter Batchelor MP
Minister for Energy and Resources

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