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30 November 2005

Mr Gary Banks
Chairman, Regulation Taskforce
PO Box 282
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Dear Chairman,

Regulation Taskforce Review

Thank you for the opportunity to comment on the regulatory burden faced by industry and business in Australia. The Australian Petroleum Production and Exploration Association (APPEA) is the representative body of the oil and gas exploration and production industry in Australia. APPEA seeks to promote a competitive basis for the development of Australia's oil and gas resources while maintaining the highest standards of safety, health and environmental management.

The oil and gas industry in Australia is subject to a range of regulations governing its activities. This submission will cover regulations under the *Petroleum (Submerged Lands) Act 1967*, the *Income Tax Assessment Act* and environmental regulation under both the *Petroleum (Submerged Lands) Act 1967* and the *Environment Protection and Biodiversity Conservation Act 1999*. Unnecessary and/or duplicative regulations can have a significant impact on the oil and gas industry, and can hinder investment in Australia. The reduction of the regulatory and compliance burden faced by the industry would enhance petroleum investment in Australia, and increase an already valuable contribution to Australian society and the economy.

Regulations under the Petroleum (Submerged Lands) Act 1967

In 1993, the then Australian and New Zealand Minerals and Energy Council (ANZMEC) agreed to replace the 'Schedule of Specific Requirements as to Offshore Petroleum Exploration and Production in Waters under Commonwealth Jurisdiction' under the *Petroleum (Submerged Lands) Act 1967* with objective based regulations. Objective based regulations have been introduced in the areas of safety (1996), environment (1999), pipelines (2001) diving safety (in 2002), data (2004) and well operations (2004). The remaining regulations proposed to be introduced are Resource Management Regulations. In addition, the National Offshore Petroleum Safety Authority (NOPSA) was established in 2005.

These regulations all require the preparation of management plans. While the petroleum industry has supported the move to objective based regulations, the growing requirement for management plans to be submitted to government and approved is imposing a significant cost and time burden on the industry, and can create substantial duplication in regulation. It also

imposes a significant burden on the scarce resources of government agencies. Many of the requirements of these regulations require the submission of the same information, for example, regarding safety and environmental considerations, at different times and to different agencies. This information is also provided to NOPSA in the form of a Safety Case, and to the Commonwealth's Designated Authority in the form of an Environment Plan.

APPEA submits that no new regulations should be made until there has been a thorough review of the working of the existing regulations in effect to determine whether they are achieving their stated objectives, whether there are overlaps between regulatory requirements and with NOPSA requirements, and whether any of the regulatory requirements can be simplified or streamlined. In particular, the proposed Resource Management Regulations should not proceed until after such a review has been completed.

Company (Income) Tax: Foreign Resident Withholding

With effect from 1 July 2004, a Regulation was issued prescribing certain payments to be subject to a 5 per cent withholding. Broadly, the withholding tax obligation applies to payments made to foreign entities under contracts entered into after 1 July 2004 for the construction, installation and upgrading of buildings, plant and fixtures and for activities associated with those construction, installation and upgrading activities. The Government's stated policy objective is to ensure that foreign contractors that undertake services in Australia pay their fair share of Australian tax.

The resources sector (including companies engaged in petroleum development and production operations) is significantly impacted by this new arrangement. APPEA, together with other industry bodies, have brought a number of significant compliance issues to the attention of the Government covering both implementation and definitional issues. While industry recognises the need to impose a withholding tax on overseas entities that may be seeking to avoid Australian tax liabilities, the process whereby the purchaser of the goods and services (ie the project investor) is required to undertake a complex and time consuming range of actions to vary or reduce a withholding liability for an overseas based company needs to be addressed. A mechanism whereby local purchasers with an established tax record and appropriate internal review processes are able to access a simplified exemption or variation process needs to be introduced as a high priority to meet both the Government's desire to ensure overseas suppliers do not avoid an Australian tax liability and to remove an undue regulatory burden on domestic investors.

Environment Regulations

There are a variety of activities undertaken by the oil and gas industry in Australia that are subject to a number of separate Ministerial decisions covering environmental requirements before a relevant activity can proceed. These include the Petroleum (Submerged Lands) (Management of Environment) Regulations which govern all oil and gas activity in Commonwealth waters and approvals under the *Environment Protection and Biodiversity Conservation Act 1999* which may be triggered by a matter

of national significance, or by the requirement to obtain a cetacean permit, or both.

Conditions for the approval to carry out an activity can be duplicated by two Commonwealth Ministers (Minister for Industry, Tourism and Resources, and Minister for Environment and Heritage), seemingly to ensure that each has a right of veto if it is believed necessary. This duplication increases the compliance burden on the industry, as the same information is provided to two agencies, both at the approval stage and at the compliance stage.

The industry also experiences significant delays and compliance costs where an activity affects both Commonwealth and State interests, due to numerous duplications in regulations and information requirements. A primary example of the overlap between the states and the Commonwealth is the reporting of greenhouse gas emissions. Anecdotally, a prominent national petroleum producer has noted that they currently report under twenty-three different reporting regimes or proposed regimes across Australia. This includes under various licensing provisions, the West Australian Greenhouse Gas Inventory (WAGGI), NSW Greenhouse Gas Abatement Scheme (GGAS), National Pollutant Inventory – Victorian Greenhouse Pilot, and the Greenhouse Challenge Plus. What is peculiar is that reporting proposals continue to be developed and yet there is an agreed process between the States and the Commonwealth through the Joint Environmental Protection & Heritage Council (EPHC)/Ministerial Council on Energy (MCE) to develop options for a national approach to business reporting of greenhouse and energy. APPEA policy supports the mandatory reporting of greenhouse and energy, but we prefer a single national scheme over the duplicative system currently operating across Australia. The Greenhouse Challenge Plus program provides the appropriate structure to deliver the needs of industry and government.

APPEA considers it appropriate that a comprehensive review be undertaken to identify areas of duplication and inefficiencies within Commonwealth and State legislation and regulations with a view to improving the regulatory framework. APPEA welcomes the process that is currently underway and encourages the Task Force to determine a firm timeline for the review of the above regulations with a view to reducing the burden on industry and government. If you wish to discuss any aspect of this submission, please do not hesitate to contact me (tel: 02 62670900 or email brobinson@appea.com.au).

Yours sincerely,

Belinda Robinson
CHIEF EXECUTIVE