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4 April 2013

Ms Sophie Dunstone
Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Ms Dunstone

Inquiry into the Environment Protection and Biodiversity Conservation Amendment Bill 2013 [Provisions]

Santos Limited welcomes the opportunity to provide feedback on the Environment Protection and Biodiversity Conservation Amendment Bill 2013.

Santos is one of Australia's largest producers of gas to the domestic market and has the largest exploration and production acreage position in Australia of any company. Santos has developed major natural gas, oil and gas liquids businesses in Australia, and operates in all mainland States and the Northern Territory. With more than 3,000 employees across Australia and Asia, Santos' foundations are based on safe, sustainable operations and working in partnership with host communities, governments, business partners and shareholders.

Santos is also one of Australia's leading proponents in the exploration for, and production of, coal seam gas (CSG). We are the only company with significant CSG activities in both Queensland and New South Wales – the only States where significant CSG operations are occurring or are in development. As such, we have a unique perspective on the potential impacts of the Bill on the coal seam gas industry.

Santos supports robust scientific examination of coal seam gas and coal projects, including as they may relate to impact on water. Mindful of this, Santos supports the work of the Independent Expert Scientific Committee (IESC), the work of the Standing Committee on Energy and Resources (SCER) as it relates to the development of draft National Harmonised Regulatory Framework for Coal Seam Gas and the outcomes of the Hawke Review of the EPBC Act around the administration of that Act.

Given the processes outlined above are being driven by the Commonwealth Government and worked through collegiately at the State and Commonwealth levels of government, Santos has significant reservations about the amendments as they relate to:

- The objectives of the Bill;
- The introduction of industry-specific triggers for Matters of National Environmental Significance (MNES); and
- Capturing exploration and appraisal coal seam gas by the proposed amendments.

Objectives of the Bill

In terms of the objectives of the Bill before the Committee, the proposed amendments will add a further layer of complexity to an already complex piece of legislation. This complexity will inevitably result in ongoing ambiguity and inordinate delays to projects, compromising Australia's ongoing energy security and, in reality, driving capital investment in energy offshore.

Industry specific MNES trigger

In terms of the introduction of an industry-specific water trigger under MNES, pre-empting the processes of SCER and the IESC has the potential to undermine the work of State and Commonwealth Governments.

Exploration and appraisal activities

Most concerning to Santos is a seemingly unintended consequence of the amendments that "exploration" and "appraisal" activities will be captured. This would also not seem to be consistent with the intent of the Bill to apply to a "development" (not to exploration or appraisal activities).

Traditionally the Act has been interpreted to regard a "development" as referring to a defined project already committed to by the proponent. Such a commitment can only be made after the proponent has a sound understanding of the resource it is targeting, and the geological and environmental factors which will influence that development.

Opening exploration and appraisal activities to coverage by the Bill, coupled with the unclear definition of the phrase "significant impact on water", which is both broad in scope and interpretation, does not provide proponents with any degree of certainty. Again, the consequences are likely to include inordinate approval times for projects, and to maybe even stall projects indefinitely.

The impact on water for exploration and appraisal activities is significantly less than that of a development project involving longer term production of gas and water. Applying the new amendments to exploration and appraisal activities will result in fewer projects or potentially no projects being able to be developed from the exploration and appraisal stage to a sanctioned project. This would seem to be an unintended effect of the Bill.

Santos submits that the Bill be amended so that coal seam gas exploration and appraisal activities are excluded from the amendments to be introduced by the Bill.

This amendment could be achieved by including in the Bill a new item to amend the definition of "coal seam gas development". A suggested drafting of the amendment is as follows:

Insert definition of "Coal Seam Gas Development" to Exclude Exploration and Appraisal

Amend Schedule 1, Part 1 of the Bill as follows:

"18A Section 528

Insert at the end of the definition of "coal seam gas development" the following:

, but does not include exploration, assessment or appraisal pursuant to a petroleum title granted under a law of a State or Territory."

We have confined our remarks to the Bill currently before the Committee. We note, however, the Greens also intend to move amendments to this Bill in the Senate. Based on media reports, we would strongly oppose these amendments and their underlying intent.

In conclusion, Santos regards with concern the proposed amendments to the EPBC Act. We fear the proposed amendments would result in both industry and Government committing considerable additional resources and effort to regulatory processes that only served to compromise the efficiency of regulation and delivered no effective environmental benefit.

Yours sincerely

Robert Underdown
Manager, Policy and Government