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29 April 2014

Ms Sophie Dunstone
Committee Secretary
Senate Legal and Constitutional Affairs Legislation Committee

(via e-mail to: legcon.sen@aph.gov.au)

Dear Ms Dunstone

RE: SENATE LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE INQUIRY INTO THE *MIGRATION AMENDMENT (OFFSHORE RESOURCES ACTIVITY) REPEAL BILL 2014*: COMMENTS FROM THE AUSTRALIAN PETROLEUM PRODUCTION & EXPLORATION ASSOCIATION

The Australian Petroleum Production & Exploration (APPEA) welcomes the opportunity to provide comment on the Inquiry into the *Migration Amendment (Offshore Resources Activity) Repeal Bill 2014.*

APPEA is the peak national body representing Australia's upstream oil and gas exploration and production industry, with more than 90 full member companies, all of which are oil and gas explorers and producers active in Australia. Our member companies account for 98 per cent of the nation's petroleum production. APPEA also represents more than 230 associate member companies that provide a wide range of goods and services to the upstream oil and gas industry.

As you may be aware, APPEA opposed the introduction of a dedicated visa for workers in the offshore resources industry, as first proposed under the previous Government. We welcome moves to repeal the *Migration Amendment (Offshore Resources Activity) Act 2013* (ORA 2013) prior to its commencement as it would avoid the increased regulatory burden and the imposition of additional costs represented by ORA 2013. This is critical in a sector that is already facing growing global competition for future investment.

The oil and gas industry is a major driver of Australia's prosperity. In 2011-12 Australian LNG (liquefied natural gas) cargoes earned almost $12 billion in export revenue and put $29.4 billion dollars into the Australian economy. In the same year, the oil and gas industry also paid more than $8 billion in taxation to governments across Australia.

With $200 billion worth or new projects now under construction, the industry's contribution is set to grow substantially, having generated more than 100,000 direct and indirect jobs across the Australian economy in 2013.

Within a few years Australia is set to become one of the world's leading LNG exporters.

Of the thirteen LNG plants under construction or firmly committed around the world, seven are in Australia. Separately, these represent some of the biggest projects ever undertaken in this country. By the end of the decade, it is estimated that the industry's annual tax contribution will be around $13 billion.

However, the continued rate of development of Australia's gas resources cannot be taken for granted. The industry is truly global in nature and must compete for a limited pool of international investment capital. Investment lost from the Australian oil and gas industry will be redirected to overseas competitors.

While the industry has committed to the development of a number of large-scale projects over the last decade, the new generation of investments (and extensions to existing and committed projects) will be heavily dependent on improving Australia's productivity, labour market flexibility and removing excessive red tape. Even small delays can add significant costs to industry and, in turn, the Australian economy.

The oil and gas industry's workforce – in both the construction and operations phases of major projects - is highly skilled and international in nature. To take one example from the current construction phase of major LNG projects, foreign employees of contractor companies working on pipe laying vessels have specialised skills which are historically accessed globally. This skilled workforce accompanies the vessel to wherever the pipe laying contract specifies until such time as the work is completed, before moving on to the next project.

This global maritime workforce is covered by a range of international laws aimed at protecting their welfare and safety, for example the International Convention for the Safety of Life at Sea (SOLAS) 1974. In addition, their 'workplace', ie foreign flagged vessels, are covered by all of the laws of the flag country, including employment conditions, safety and so on.

In APPEA's view, ORA 2013 has been formulated to service an industrial relations agenda rather than a skills or health, safety or environmental agenda. While it is targeted at workers on foreign-flagged, foreign-owned vessels, it may create unintended consequences for a much broader set of construction and operational circumstances, including drill ships, floating production, storage and offtake vessels (FPSOs), tugs, stand-by vessels and accommodation vessels. Many of these activities are regulated by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGSA 2006) and associated regulations. The industry's highest priority and commitment is safety, and the over-riding policy objective needs to be to protect the offshore legislative regime for safety and environment applying to the Australian oil and gas industry through the OPGGSA 2006.

Extending Australia's migration zone through ORA 2013 in order to extend industrial relations laws to vessels and workers undertaking highly specialised work for a short time only adds to the regulatory burden applying to offshore construction and operations with no palpable benefit. Industry estimates that the number of non-citizens working in the industry is likely to be around 2,000 per annum but given the temporary nature of much of their work this would be significantly less at any one time.

The offshore oil and gas industry has an ongoing need for temporary skilled migration into Australia. Unnecessary delays are frequently experienced in securing temporary visas for skiled workers. The following example highlights the need for the use of temporary skilled overseas workers for specific tasks and the consequences of delays in seeking and obtaining visas for short-term projects.

A contractor had to assemble a very large and rarely used type of crane for work on a project. The crane had been brought in from overseas for this specific work. It had to be assembled, moved on three separate occasions to perform lifts, and disassembled on completion of the work. The contractor made a request to bring in its own experienced workers from overseas to undertake this activity.

Delays by the Department (of Immigration & Border Protection) in processing the request meant that the contractor had to utilise its inexperienced workers to perform the tasks under strict supervision in order for it to comply with its contractual obligations.

The result was that the work activity on each occasion took twice as long to perform. Each task that would normally take 10 days to perform by experienced personnel took 20 days because of the inaction to process a clear business case for the use of overseas workers.

The costs associated with this process included extended use of the equipment, project delays and training down-time for no ongoing purpose.

Inefficient, unnecessary red tape such as that outlined above does not support the industry's efforts to improve productivity and further undermines Australia's national competitiveness. APPEA therefore supports the repeal of the ORA 2013 as an important component of broader labour market policy reforms that facilitate the development of a flexible and mobile workforce.

APPEA acknowledges the possibility that the proposed repeal Bill may not pass through Parliament before the ORA 2013 takes effect on 30 June 2014. In this event, it is critical that industry has certainty in terms of exactly what will be required from that point and until such time as the ORA is repealed Any interim measures applied should not cause project delays or further increase project costs and regulatory burden. Any new or interim visa solution should not involve health checks, labour market criteria, English language testing or sponsorship framework.

The imposition of a wide-ranging and potentially complex 'solution' to address concerns over a small number of short-term, specialist workers adds to the regulatory burden endured by the offshore oil and gas industry. It represents one more disincentive to attracting further investment in the sector.

Finally, in the event that the proposed repeal Bill does not pass through Parliament, APPEA would prefer to see a new round of consultation with key stakeholders to develop an approach that allows the necessary flexibility and stability required by the oil and gas industry to be achieved.

If you would like to discuss any aspect of our submission, please do not hesitate to contact Ms Roma Sharp, APPEA's Senior Policy Adviser in our Perth office on (08) 9426 7209 or rsharp@appea.com.au.

Yours sincerely

David Byers
Chief Executive