



AUSTRALIAN PETROLEUM PRODUCTION & EXPLORATION  
ASSOCIATION LIMITED

## SENATE ECONOMICS COMMITTEE

# *INQUIRY INTO THE OFFSHORE PETROLEUM AMENDMENT (GREENHOUSE GAS STORAGE) BILL 2008 & 3 RELATED BILLS*

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APPEA Supplementary Submission

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## 1. INTRODUCTION

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The Australian Petroleum Production & Exploration Association (APPEA) represents the collective interest of the upstream oil and gas (petroleum) industry in Australia. APPEA member companies produce around 98 per cent of Australia's oil and gas. Further details on APPEA can be found at [www.appea.com.au](http://www.appea.com.au).

APPEA welcomes the opportunity to make this supplementary submission to the Senate Economics Committee, as part of its Inquiry into the *Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill 2008* & 3 related bills. This supplementary submission follows APPEA's main submission made to the Committee on 15 August 2008. This submission provides APPEA's comments on the 19 recommendations contained in the House of Representatives Standing Committee on Primary Industries and Resources report, *Down Under: Greenhouse Gas Storage*<sup>1</sup>, released on 15 August 2008.

## 2. COMMENTS ON THE RECOMMENDATIONS MADE IN THE *DOWN UNDER: GREENHOUSE GAS STORAGE* REPORT

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As a general comment, APPEA welcomes the *Down Under: Greenhouse Gas Storage* report, which endorses many of the recommendations made by APPEA in our July 2008 submission to the Committee. APPEA's specific comments on each of the 19 recommendations follow.

### 2.1 Recommendation 1

*The Committee recommends the inclusion within the Bill of an objects clause, providing that the legislation:*

- *provide greenhouse gas injection and storage proponents with the certainty needed to bring forward investment; and*
- *preserve pre-existing rights of the petroleum industry as far as is practicable to minimise sovereign risk to existing titleholders' investment in Australia's offshore resources.*

APPEA sees little reason for the inclusion of an objects clause within the Bill, noting the *Offshore Petroleum Act 2006* itself does not have an objects clause, and the inclusion of an objects clause of this nature is not common practice in Commonwealth legislative drafting processes. In any case, were an objects clause to be included, it would need to more accurately reflect purpose of Act than the wording contained in this recommendation.

### 2.2 Recommendation 2

*The Committee recommends that the responsible Commonwealth Minister utilise established formal consultation pathways to consult with State Governments, industry and environmental organisations, with a view to achieving national consistency in the administration of GHG storage legislation.*

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<sup>1</sup> Available at [www.aph.gov.au/house/committee/pir/exposedraft/report/fullreport.pdf](http://www.aph.gov.au/house/committee/pir/exposedraft/report/fullreport.pdf).

APPEA welcomes this recommendation, which supports APPEA's long-held and consistent view that it is vital that a 'fit for purpose' and consistent legislative and regulatory framework across all Australian jurisdictions is developed. APPEA notes recent months have seen various departures from this national consistency (in both administrative and substantive policy matters) and further recommends the Committee reinforce this need for a consistent approach across jurisdictions.

### **2.3 Recommendation 3**

*The Committee recommends that no acreage be automatically excluded from consideration for selection on the grounds of pre-existing petroleum activities.*

APPEA does not support this recommendation. As was noted in our 15 August 2008 submission, APPEA's consistent view has been that the best way to ensure conflicts do not arise is to in general<sup>2</sup> avoid overlapping access leases or licences (for example, through the ghg injection and storage acreage release process).

Simultaneous operations of ghg injection and storage operations and oil and gas production can create significant problems which may present significant risk and integrity issues.

APPEA recommends that, particularly in the initial stages, when ghg injection and storage in Australia remains in its infancy, that such overlaps be avoided, unless the nomination of ghg acreage gazettal has the support of the existing petroleum title holder.

### **2.4 Recommendation 4**

*The Committee recommends that the process for identifying and short-listing acreage for release should be transparent and systematic, and should consider the views and submissions of all relevant stakeholders.*

APPEA recommends the process for identifying and short-listing (ghg injection and storage) acreage for release be consistent with the process followed for identifying and short-listing petroleum acreage for release.

### **2.5 Recommendation 5**

*The Committee recommends that the criteria established for assessing work bid applications facilitates the uptake of CCS activities while maintaining transparency and consistency.*

APPEA recommends the criteria established for assessing (ghg injection and storage) work bid applications be consistent with the criteria established for assessing petroleum work bid applications. That is, the criteria should establish a

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<sup>2</sup> Recognising there may be situations some petroleum operators may find the need to apply for ghg titles over parts of their existing licences. The Bill should cater for these situations.

transparent and consistent methodology to decide upon the “best” work bid application, not as a way to directly facilitate the uptake of CCS.

## **2.6 Recommendation 6**

*The Committee recommends that the legislation be amended to allow for a GHG assessment permit holder to apply for a single right of renewal for a maximum three years duration.*

APPEA supports this recommendation, which is consistent with our recommendation to both Committees, that the Bill be amended to incorporate a single right of renewal subject to a rigorous test based upon the results achieved to-date and the resulting ongoing work program to fully assess the potential within the permit.

## **2.7 Recommendation 7**

*The Committee recommends that the GHG injection and storage rights conferred under s.137 of the Offshore Petroleum Act 2006 be maintained where practical.*

APPEA strongly supports the main effect of this recommendation, which is consistent with our recommendation to both Committees (contained in Section 3.4 of our 15 August 2008 submission to the Committee). However, APPEA disagrees with the implication (by inclusion of the words “where practical”) that there may be scenarios in which existing ghg injection and storage rights would not be preserved. Rights currently conferred on the holders of petroleum titles to conduct such activities as part of standard or enhanced petroleum recovery practices should remain unchanged and undiminished.

## **2.8 Recommendation 8**

*The Committee recommends that the Government review the Offshore Petroleum Act and proposed amendments to provide for the development of integrated petroleum projects, including the injection and storage of GHG from multiple sources into a single storage formation.*

APPEA also strongly supports this recommendation, which is consistent with our recommendation to both Committees (contained in Section 3.4 of our 15 August 2008 submission to the Committee).

## **2.9 Recommendation 9**

*The Committee recommends that the Bill be amended to provide for the responsible Commonwealth Minister to direct the parties to negotiate in good faith where there are potential or actual overlapping GHG storage and petroleum titles, under both pre-commencement and post-commencement petroleum titles; and that the responsible Commonwealth Minister be empowered to direct an outcome.*

APPEA does not support this recommendation. This recommendation would, as the *Down Under: Greenhouse Gas Storage* report notes in paragraph 3.45, represent an encroachment upon the pre-commencement rights of petroleum title holders.

APPEA has long recommended any legislation should provide a framework where ghg injection and storage or other activities in an area only proceed if they do not impact on existing oil and gas operations or they permit (but do not compel) an existing titleholder and a ghg injection and storage proponent to enter into commercial negotiation so that agreements between pre-commencement title holders and ghg injection and storage proponents can be struck. Imposition of an obligation on those parties to negotiate in good faith would not only compel negotiation but would potentially compromise an existing titleholder's entitlement to act to fully preserve the integrity of its pre-commencement title activities. Similarly, allowing the Responsible Commonwealth Minister to direct an outcome would create ongoing sovereign risk for existing titleholders' investment in Australia's offshore resources.

### **2.10 Recommendation 10**

*The Committee recommends that the regulations and guidelines attendant upon the legislation are released for stakeholder and public comment as a matter of urgency.*

APPEA supports this recommendation, which is consistent with APPEA's recommendation to both Committees.

### **2.11 Recommendation 11**

*The Committee recommends that incumbent petroleum operators be offered a one-off opportunity to incorporate a GHG assessment permit over their exploration or production licence, with the condition that they must demonstrate utilisation of this permit within five years, or surrender it.*

APPEA supports this recommendation, which as the *Down Under: Greenhouse Gas Storage* reports notes in paragraph 4.13, "is a positive suggestion that could successfully speed the process of establishing commercial GHG storage in this country".

### **2.12 Recommendation 12**

*The Committee recommends that those proponents who can demonstrate a readily available CO<sub>2</sub> stream for imminent injection receive preferential consideration when assessing bids for GHG acreage allocation.*

APPEA recommends the criteria established for assessing (ghg injection and storage) work bid applications be consistent with the criteria established for assessing petroleum work bid applications. That is, the criteria should establish a transparent and consistent methodology to decide upon the "best" work bid application, not as a way to directly facilitate the uptake of CCS.

### 2.13 Recommendation 13

*The Committee recommends that the Government consider further financial incentives for the earliest movers in this new industry, and that these incentives be made public at the earliest opportunity.*

APPEA supports this recommendation. It is appropriate, in the context of a rigorous cost-benefit analysis, focussed on policies that correct identified market failures, for Government to consider whether further ghg injection and storage-related financial incentives are required.

However, APPEA disagrees with that aspect of the recommendation that appears to be considering ghg injection and storage as a new “industry”. Ghg injection and storage is more properly considered as an “activity” that may form part of an industrial process, such as upstream oil and gas production or power generation.

In this context, any further financial incentives should be focussed on support for the “activity” of ghg injection and storage and not be focussed on any particular industry, that is, support for ghg injection and storage activities should be equally available to any relevant proponent (including from the upstream oil and gas industry, power generation industry, pipeline industry, coal industry and others).

### 2.14 Recommendation 14

*The Committee recommends that a process for the formal transfer of long-term liability from a GHG operator to the Government be established within the proposed legislation, such transfer to be conditional upon strict adherence to prescribed site closure criteria.*

APPEA notes this recommendation, which will be welcomed by many ghg injection and storage proponents and other stakeholders.

In section 3.5 of its 15 August 2008 submission to the Committee, APPEA considered the issues on long-term liabilities in detail, noting the defining of long-term liabilities and management of post-closure responsibilities for the long-term underground storage of carbon dioxide is a key ghg injection and storage regulatory priority.

Management of long-term liabilities and responsibilities, monitoring of stored carbon dioxide, post closure responsibilities, and specifically the delineation of responsibilities between project proponents and regulators, is vitally important.

### 2.15 Recommendation 15

*The Committee recommends that general criteria for achieving a site closing certificate be established and published as part of the implementation of the legislation.*

APPEA supports this recommendation, which is consistent with our recommendation to both Committees that criteria for both the injection and post-injection phase up to the site closure should be established in advance of commencement of injection and storage for individual projects. This would allow a potential ghg injection and storage operator to make commercial decisions on the viability of potential projects.

### **2.16 Recommendation 16**

*The Committee recommends that non-fixed closure timeframes as currently prescribed within the proposed legislation be used in preference to alternative models such as fixed term closure periods.*

APPEA supports this recommendation, which is consistent with our recommendation to both Committees.

### **2.17 Recommendation 17**

*The Committee recommends that community and stakeholder engagement strategies be considered as part of any GHG storage activity.*

APPEA supports this recommendation, which is consistent with our recommendation to both Committees.

### **2.18 Recommendation 18**

*The Committee recommends consideration be given to making monitoring data associated with GHG storage project publicly available.*

APPEA supports this recommendation, which would not mandate provision of such data but rather that consideration be given to making such data available. APPEA would welcome a rigorous cost-benefit analysis of the benefits in terms of issues including shared learning's from ghg injection and storage experience and improved community acceptance of ghg injection and storage activities and ways in which associated administrative and information gathering compliance costs for ghg injection and storage proponents could be minimised before any final decision concerning monitoring data is made.

### **2.19 Recommendation 19**

*The Committee recommends the use of consultative pathways to provide feedback on the wider community's concerns to the responsible Commonwealth Minister.*

APPEA supports this recommendation.