Sub # 022
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The Research Director
Agriculture, Resources and Environment Committee
Parliament House
BRISBANE QLD 4000

BY EMAIL: AREC@parliament.qld.gov.au

Dear Sir/Madam

Water Reform and Other Legislation Amendment Bill 2014

The Australian Petroleum Production & Exploration Association (APPEA) welcomes the opportunity to provide a submission on the above Bill.

APPEA is supportive of the Bill's objective of establishing a consistent framework for underground water rights for the resources sector and for the management of impacts on underground water. We believe this can be achieved in a manner that supports the ongoing growth of the petroleum industry without compromising other water users or the environment.

In moving to a consistent framework for water rights APPEA is seeking:

1. A workable alternative pathway for the petroleum industry to secure non-associated water.

2. Appropriate transitional provisions that recognise current water use and future water requirements associated with existing projects.

We do not oppose the timelines set by the Bill to achieve the above - five years for the Surat Cumulative Management Area (CMA) and two years for other areas of Queensland – on the basis that government has stated it will use the transitional period to review the water planning regime and provide an appropriate framework for exemptions and licensing of petroleum industry water extraction. However, given that there is a considerable body of work to undertake before the end of the transitional period we consider the two year and five year deadlines to be ambitious.

We also note the following:

- Government is removing the petroleum industry's right to extract "non-associated water" without first identifying an alternative pathway to secure such water and the effect of this has been to introduce uncertainty into the industry with respect to development plans beyond the transitional period. Though APPEA and the industry acknowledge government's commitments with respect to transitional arrangements and grandfathering and we do not wish to overstate the issue, the current lack of clarity has placed some investment in Queensland's petroleum industry at risk.

- Petroleum projects need certainty of access to water from the start and throughout the life of operations (from commencement of Authority to Prospect to end of Petroleum Lease). The existing instruments in the Water Act have not historically been used to provide entitlements that would suit petroleum operations and may therefore need refinement.

- Moving petroleum into the existing regime may place the petroleum industry in direct competition for water with the agricultural sector. There is therefore potential to undermine the successful coexistence between agriculture and petroleum that exists in Queensland which is an outcome we wish to avoid.

- There are strong arguments to treat low risk exploration projects differently to production projects and such a distinction is drawn in the Surat CMA (eg exploration activities are exempt from the requirement to undertake a baseline bore study). The difference between exploration and production should continue to be recognised by government in the Water Act.

Other Water Act issues

1. *s5AA - Watercourse mapping*

There is no express provision for industry to challenge the mapping of a watercourse and have an area mapped as a watercourse removed from the mapping.

Incorrect/inaccurate mapping of spatial restrictions relating to other government policies has previously been a significant issue for the resources industry. We submit that it would be prudent for government to explicitly enable review and correction of any map that imposes restriction zones.

2. *s79-s90 - Water Development Option*

Under the provisions of new s79-s90 a proponent may apply to the chief executive to be granted a 'water development option'. A 'water development option' is a commitment by the State to a person proposing a major water infrastructure project to reserve an amount of water for the project on the conditions decided by the chief executive.

This provision may be useful for new upstream gas projects however we note the option is limited to coordinated projects only which would exclude a number of significant new developments. No explanation is provided in the explanatory notes as to why the water development is limited to coordinated projects.

APPEA submits that proponents should not be excluded from declaration as a major water infrastructure project and from being granted a 'water development option' simply because they utilised, or plan to utilise, the normal state approval process under the *Environmental Protection Act 1994*.

3. *s100 - Statutory authorisation for interference to construct water observation and monitoring bores*

Inserted s100 continues the statutory authorisation for interference with water through diversion of a watercourse as part of resource activities that is currently provided under s20(4) of the Water Act.

However, the statutory authorisation related to the construction of water observation and monitoring bores that is currently provided under s20C(1) of the Water Act has been removed. While this may be associated with the expansion of some of industry's other statutory rights to water (for example, the 'general authorisation to take or interfere with underground water for any purpose' outlined at item 13) we seek clarification on the intent.

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4. s104 - Petroleum Facility Licences

Inserted s104 specifies who is an "owner of land" and expands the "prescribed entities" who may apply for a water licence to include:

- Applicants for petroleum tenures
- Petroleum Pipeline Licence (PPL) holders

These additions are positive for industry however we note there remains no ability for holders of Petroleum Facility Licences (PFLs) to apply for a water licence. While the take associated with PFLs may reasonably be expected to be low volume – and therefore eligible a general authorisation for low volume take – we submit that PFLs holders should be permitted to apply for water licences in the same manner as other resource tenures.

Further, applicants for (as opposed to holders of) PPLs and PFLs should also be able to apply for water licenses.

5. s386 – Publishing approval and making report available

Amended s386 provides that a responsible entity that has received approval of a UWIR must not only publish a notice about the approval (a requirement already contained in existing section 386(1) of the Act) but must also advise the chief executive within 15 business days of the approval that the entity has complied with the publication requirement. Amended s386 also contains a penalty for failure to advise the Chief Executive that the entity has complied with the publication requirement.

We question the reasoning behind the notification requirement in the context of Government's red tape reduction initiatives. In APPEA's view a penalty for failure to notify the chief executive that a company has complied with the regulatory framework is inappropriate. Penalty provisions should be constrained to culpable acts, for example a failure to comply with regulatory requirements, and not apply to administrative procedures such as failing to notify the chief executive that compliance with regulation has been achieved.

6. s370A - Exemption from UWIR requirement

Inserted s370A provides an exemption from the requirement to give an Underground Water Impact Report (UWIR) for the holders of "low risk resource tenure".

While the precise details of what constitutes a "low risk resource tenure" are yet to be developed, we see this provision as positive given it has the potential to alleviate a significant source of administrative burden in some areas.

7. s418 - Direction by chief executive to undertake bore assessment

Amendments to s418 broaden the Chief Executive's power to issue a bore assessment notice if they reasonably believe a bore is affected, or is likely, in the future, to be affected, by the exercise of a resource tenure holder's underground water rights. A notice may only be issued under existing s418 if the chief executive reasonably believes a water bore can no longer supply a reasonable quantity or quality of water for its authorised use or purpose (ie the Chief Executive reasonably believes actual impact is occurring).

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This provision has the potential to significantly impact petroleum industry given the cost of assessing bores and the broad scope of the amendment in that the Chief Executive's powers now cover all bores. Given that the existing regime already provides certainty to bore owners that impacts will be addressed before they actually occur we wish to avoid unnecessary assessments.

For this reason we request that government develop, and consult with stakeholders on, decision making criteria that specify under what circumstances the Chief Executive would give a direction under s418.

Safety and health legislative provisions for the new overlapping tenure framework

1. *s675(1)(cb) and s675(2)(ca) to the Petroleum and Gas (Production and Safety) 2004 Act*

Amended s675 introduces a new requirement to update a site's safety management plan every time a Site Safety Manger (SSM) rotates at each site.

The personnel filling SSM positions are often on rotation and different individuals fill the SSM position from one day to the next and the provision would therefore introduce a significant new administrative burden for little benefit.

APPEA submits that a more efficient approach is that government simple requires operators to provide the name of the relevant SSM as required.

If you would like to discuss any of the matters raised in this submission please contact me at [redacted]

Yours sincerely

[redacted]

Matthew Paull
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Australian Petroleum Production & Exploration Association Limited (APPEA)