



# Mineral and Other Legislation Amendment Bill 2016 (MOLA Bill)

australian petroleum production & exploration association limited

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the voice of Australia's oil and gas industry



The Australian Petroleum Production and Exploration Association (**APPEA**) is the peak national body representing the upstream oil and gas exploration and production industry. APPEA has more than 80 full member companies comprising oil and gas explorers and producers in Australia.

APPEA members produce and estimated 98 per cent of the Nation's petroleum. APPEA also represents more than 250 associate member companies providing goods and services to the oil and gas industry. Further information about APPEA can be found at [www.appea.com.au](http://www.appea.com.au).

APPEA is pleased to provide the following submission regarding the MOLA Bill to the Infrastructure, Planning and Natural Resources Committee (**the Committee**). This submission focuses on overlapping tenure and restricted land provisions within the MOLA Bill.

### **1. Overlapping Tenure Provisions:**

APPEA has conducted extensive consultation with the industry during the development of these provisions. In respect to the final MOLA Bill, APPEA seeks a review of the following drafting issues:

- Clause 31 of the MOLA Bill to include amendment to section 130 (2)(c) of the MERC Act by deleting petroleum resource authority holder and replace this with Petroleum Lease holder for consistency of the preceding changes.
- Clause 53 amendments are supported by APPEA however, we recommend that a further amendment should be made to allow arbitration of disputes about the existence of an entitlement to compensation.

### **2. Restricted Land Provisions:**

Resource companies are already subject to detailed conditions under Environmental Authorities, which regulates how activities affect sensitive locations for dust, noise, light and odour. Examples of sensitive locations, or sensitive receptors, include a dwelling, library, childcare centre, medical centre, or a public park. Land access agreements between a resource company and land holder reflect the development of infrastructure and activities on the property in question.

The addition of another layer of land constraints through the implementation of the restricted land provisions offers no additional environmental protection or landholder surety, but adds further complexity in the planning and development of resource projects.

### Required amendments to restricted land provisions:

The inclusion of restricted land provisions in the MERCP Act should operate to improve the operations of landholders and resource companies. With this point in mind, APPEA draws the Committee's attention to the following key issues to the restricted land provisions:

- Clarify what defines a permanent building that triggers restricted land under section 68 of the MERCP Act.
- Require the owner or occupier of restricted land to have a registered lease, or right as marked on title, to occupy a primary dwelling (clause 8 of the MOLA Bill). This creates certainty regarding the status of a dwelling.
- Define the date of commencement of the 30 day timeframe for the installation of underground pipelines or cables under section 67 (b) (i) of the MERCP Act.
- Include exemptions for temporary ponds, access tracks, vents and drains at section 67 (b) of the MERCP Act. It remains unclear if some of these activities may fall within a broad interpretation of the phrases 'operation, maintenance or decommissioning of an underground pipeline or cable'.
- Extend restricted land definitions for all resource authorities (including exploration) for buildings started before the resource authority application was made. This will create greater certainty for exploration companies whose activities are of less impact to landholders properties for shorter periods than production operations. The act of amending this section will allow for the restricted land provisions to be revised upon reapplication for a production lease which provides surety for landholders at the time a development lease is applied for. To enable this the following amendments to section 68 (2) should be as follows:
  - *However, despite subsection (1)(a), land is only restricted land for a ~~production~~ resource authority if the use of the area, building or structure mentioned in the subsection started before the application for the resource authority was made.*
- Include a statutory process for Land Court proceedings regarding restricted land declarations similar to the statutory negotiation process for CCAs at clause 11 of the MOLA Bill.

APPEA thanks the Committee for the opportunity to make this submission. If you would like to discuss any of the matters raised in this submission please contact Mr Nathan Lemire