

Please attach the following **one-page summary** to your submission.

**Comments on the Interim Report for the Independent Review of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)**

**Summary**

**Name of author/organisation: Mark McCallum, Australian Petroleum Production and Exploration Association**

**Contact details:**

**Mark McCallum  
Deputy Chief Executive - Policy & External Relations  
Australian Petroleum Production & Exploration Association**

**Canberra ACT 2600  
Canberra ACT 2601**

---

**Date:** 31 July 2009

**Which chapter(s) of the interim report are you commenting on?**

**Chapter 3 and Chapter 8.**

**Key points of submission**

Elaboration on the oil and gas industry's views in relation to:

- the inclusion of a new Greenhouse trigger prior to the introduction of the Carbon Pollution Reduction Scheme;
- the Commonwealth Marine Environment as a matter of National Environmental Significance trigger under the Act; and
- making better use of current research by the Marine Biodiversity Research Hub into surrogates and predictors of biodiversity to significantly address requirements for baseline surveys and environmental research in the marine environment as a condition of approval under the EPBC Act.

**References** (if possible, include a bibliography of any documents you may wish to make available)

<http://www.marinehub.org/index.php/site/home/>

**Confidentiality statement:**

Note that all submissions unless otherwise indicated will be published on this website. You **MUST** indicate on your submission if you wish for your submission not to be published. If you wish for your submission to not be published please mark your submission as 'Confidential'. You should note that even if your submission is not published, the title of your submission and the name of the submitting organisation or individual will be published on the web site. If you wish to not have your details published please contact the Secretariat before making a submission. Contact details from of individuals making submissions will be limited to name, suburb and State/Territory.

**Do you want this submission to be treated as confidential?**

No.

These comments contain personal information of a third party individuals. The third party individual ~~consents/does not consent~~ (delete or strike out that which is not applicable) to the publication of their information.

31 July 2009

Independent Review of the EPBC Act  
GPO Box 787  
Canberra ACT 2601  
Australia  
[epccreview@environment.gov.au](mailto:epccreview@environment.gov.au)

Dear Dr Hawke,

**APPEA Comments on the Interim Report into the Independent review of the  
Environment Protection and Biodiversity Conservation Act 1999**

APPEA has welcomed the efforts the Expert Panel undertaking the independent review of the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*.

A significant proportion of Australia's known oil and gas resources are found within Commonwealth waters. With the Commonwealth marine environment identified as a matter of National Environmental Significant (NES), the Act has influence over the operations of a significant proportion of Australia's oil and gas activities. As a consequence, the EPBC Act is a critical element of the regulatory framework that applies to Australia's oil and gas industry and we welcome efforts to improve its operation.

APPEA welcomed earlier improvements to the Act aimed at increasing the operational certainty, flexibility and efficiency of the EPBC Act. APPEA considers that these reforms did not lead to lower environmental outcomes in the industry, but significantly improved certainty. APPEA's submission to the Independent Review Discussion Paper identified a number of additional areas of reform that would provide additional efficiencies and certainty, while maintaining environmental outcomes in the oil and gas sector.

It is APPEA's view that the Interim Report has captured many of these views, particularly in relation to the regulatory burden, the specialist nature of the industry that requires specialist knowledge to regulate, and supporting a long held industry view by stating that there was "considerable scope for reducing duplication of regulation, while ensuring the current standards for environmental protection are not compromised."

APPEA appreciates the opportunity provided by the release of the Interim Report to further elaborate on the industry's views in relation to:

- the inclusion of a new Greenhouse trigger prior to the introduction of the Carbon Pollution Reduction Scheme;
- the Commonwealth Marine Environment as a matter of National Environmental Significance trigger under the Act; and
- making better use of current research by the Marine Biodiversity Research Hub into surrogates and predictors of biodiversity to significantly address requirements for baseline surveys and environmental research in the marine environment as a condition of approval under the EPBC Act.

APPEA looks forward to participating in the ongoing effort to identify and implement improvements to the operation of the EPBC Act and, in doing so, smoothing the way for Australia's upstream oil and gas sector to realise its full potential in delivering long-term energy and economic security to Australia.

Yours sincerely



Mark McCallum  
**DEPUTY CHIEF EXECUTIVE – POLICY AND EXTERNAL RELATIONS**



**HEAD OFFICE**

Level 10  
60 Marcus Clarke St  
Canberra ACT 2601

GPO Box 2201  
Canberra ACT 2601

T +61 2 6247 0960  
F +61 2 6247 0548  
E [appea@appea.com.au](mailto:appea@appea.com.au)  
ABN 44 000 292 713

**BRISBANE OFFICE**

Level 9  
10 Market St  
Brisbane QLD 4000

GPO Box 1151  
Brisbane WA 4001

T +61 7 3229 6999  
F +61 7 3220 2811  
E [brisbane@appea.com.au](mailto:brisbane@appea.com.au)

**PERTH OFFICE**

Level 1  
190 St Georges Tce  
Perth WA 6000

PO Box 7039  
Cloisters Square  
WA 6000

T +61 8 9321 9775  
F +61 8 9321 9778  
E [perth@appea.com.au](mailto:perth@appea.com.au)

## **Introduction of a new Greenhouse Matter of National Environmental Significance**

APPEA welcomes the review's conclusion that:

*The proposals that have been put forward to this review for a wide-ranging regulatory regime achieved through the imposition of a greenhouse gas trigger are inconsistent with the reliance on the price signal that lies at the heart of the CPRS. There may be an argument for a greenhouse trigger where there is no price signal, for example emissions from native vegetation clearance. However, if a CPRS is introduced in the relatively near future, this review would not support the creation of a broad based greenhouse gas trigger.*

With that in mind, APPEA notes that the Opposition's Statement Regarding an Emissions Trading Scheme, released on 24 July 2009, indicated bipartisan support for the imminent introduction of a domestic emissions trading scheme. While at present Parliamentary consideration of the details of the proposed scheme remain to be concluded, it is clear that a scheme will be in place in Australia by 1 July 2011.

The legislative process to introduce a greenhouse trigger is unlikely to be completed before the commencement of the ETS and given this, any argument for the immediate introduction of greenhouse trigger on the pretence that the Commonwealth currently has limited control over greenhouse gas emissions is surely no longer valid. The ETS is real, it is imminent, it will result in a price signal for carbon, and the market will respond, and in fact the industry is in fact already responding in anticipation.

Even if governments were to contemplate the introduction of a greenhouse trigger for a limited period before the commencement of a domestic emissions trading scheme, APPEA would caution against such an approach. Many oil and gas projects are designed to operate for well over 20 years, and some for well over 50 years. The industry is concerned that the conditions of approval imposed under a greenhouse trigger, even if the trigger itself was in place for a short time and phased out on the commencement of the ETS, could leave project proponents with a legacy of requirements that sit over and above any emissions trading related liabilities for many decades.

This would represent a costly and inefficient outcome and one that does not increase greenhouse gas abatement. APPEA recommends the review's final report conclude a greenhouse trigger should not be introduced into the Act.

---

## **Commonwealth Marine Environment Trigger**

APPEA notes the Interim Reports commentary regarding the marine environment trigger and recognises the role of the Commonwealth in regulating to ensure appropriate environmental management outcomes in areas under its jurisdiction, including the Commonwealth Marine Environment. Equally, APPEA would also support the views of the Productivity Commission as noted by the Interim Report, specifically in relation to recommendation for the:

*"provision of clear guidelines where feasible on information requirements to assist proponents in efficiently providing the necessary information to allow timely regulatory decisions."*

However, it should be noted that it was not APPEA's intention that the views expressed in our submission to the discussion paper be construed as a desire to completely remove the Commonwealth Marine Environment as a matter of National Environmental Significance.

The issue that the industry has with the marine environment trigger primarily is the ambiguity in what particular aspects and elements of the Commonwealth marine environment should be the focus of an assessment of the environmental impacts of the operations undertaken by the industry. In particular what aspects and elements of the Commonwealth Marine Environment outside of the other matters of NES already considered by the industry's assessments, such as migratory species or threatened and endangered species.

A simple solution to provide some immediate clarity of focus could be for the Act to specify that in assessing significance of impacts as they relate to the Commonwealth Marine Environment, the Minister should be particularly interested in activities that will, or are likely to have, a significant impact on the “*key ecological features*” identified through the Commonwealth's bioregional marine planning process. These key ecological features have been specified in each of the bioregional profiles for each of the marine regions and provide a finer scale assessment of the important ecological features within each of the bioregional provinces.

It is APPEA's view that those activities that will not, or are not likely to result in a significant impact on the key ecological features, will equally not have a significant impact on the Commonwealth marine environment as a matter of NES. The day to day regulation of the environmental performance of these activities would then fall to the Federal Minister for Resources and Energy, under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

---

#### **Requirements for Baseline Surveys and Research under the EPBC Act**

Australia's terrestrial environment has been surveyed and studied for many decades, even centuries, and with new technologies can be easily surveyed by air and satellite. In comparison, there remains very little knowledge about each and every environment within the Commonwealth's expansive marine jurisdiction. Much of the understanding of Australia's marine environment has come from the science and surveys undertaken by Australia's oil and gas industry, fishing industry and geological survey organisations.

As the industry increasingly ventures into new geological provinces, more often than not it has very little access to any research or previous survey information that would allow it to describe the receiving environment and therefore make any immediate assessment of the likely impacts on this environment.

As a result, accessing these new provinces frequently comes with conditions or requests requiring extensive and lengthy environmental surveys, prior to granting an approval under the EPBC Act. These surveys have the potential to add years to the time taken to move from exploration and discovery of new energy resources, through to the production of these resources on behalf of all Australians.

In its assessment of the regulatory burden faced by Australia's oil and gas industry, the Productivity Commission found that:

*Although compliance costs are large (sometimes amounting to millions of dollars for a project), they are typically modest relative to the total project cost. Delays impose far more significant burdens, because they can increase project costs, reduce flexibility in responding to market conditions, impede financing of projects, and defer production and revenues.*

With over a dozen new projects worth well over \$200 billion currently under active consideration in Australia, shortening the time taken to move from exploration to production would result in very real financial benefits to Australian taxpayers and the industry. In fact the Productivity Commission found that

*Given the significance of these projects, an ‘across the board’ one year reduction in total approval time for major projects — which many participants considered feasible — could generate future national income gains in the billions of dollars each year.*

Research currently being undertaken by the Commonwealth’s Marine Biodiversity Research Hub, excitingly has the potential to provide a much more accurate picture of the likely marine environment of many of the new geological provinces being explored by the industry. The Marine Biodiversity Research Hub is a collaboration between the University of Tasmania, CSIRO, Geoscience Australia, the Australian Institute of Marine Science and Museum Victoria.

The Hub will analyse the patterns and dynamic of marine biodiversity to determine the appropriate units and models for effectively predicting Australia’s marine biodiversity. The Marine Biodiversity Research Hub is funded through the Commonwealth Environment Research Facilities Program (CERF), administered through the Australian Government’s Department of the Environment, Water, Heritage and the Arts and is focused on developing and delivering the tools needed to manage Australia’s marine biodiversity.

Research currently underway, particularly in the North, Northwest and Southwest bioregional marine provinces recognises that:

*“a comprehensive assessment of biodiversity for the entire Australian marine jurisdiction is unattainable with current resources and technology. The main challenge faced by researchers and conservation managers, therefore, is to predict biodiversity from the most useful surrogates.”*

APPEA believes that the work of the Hub in defining biodiversity surrogates should provide a reasonable understanding of the benthic habitats and patterns of marine biodiversity within a region, without a requirement to study each and every location extensively. In addition to this, the Hub is also undertaking important research to better predict marine habitats and

*“develop models that predict patterns of marine biodiversity, with specifiable precision from more broadly available physical surrogates, at regional and national scales around Australia.”*

The Hub is currently collating suitable biological data, examine the performance of a variety of statistical models (precision, sensitivity, scale-dependency, etc.), and examine which biodiversity measures are consistent surrogates for other measures.

Rather than an immediate expectation in new regions that an extensive survey for each and every site for each and every type of imaginable operation be required as part of conditioning under the Act, APPEA believes that instead this important research into surrogates and predictors of marine biodiversity should be recognised under the Act. Where the Hub’s research predicts high biodiversity, or the likely existence of more sensitive marine habitats, only then should there be any consideration of pre-access environmental research and surveys to ground truth the Hub’s predictive modelling.

It is APPEA’s view that over a period of time, the predictive models of the Hub would be further refined and mean that regulators could be confident in the predictions of likely impacts to matters of NES for many of the industry’s operations, such as drilling, appraisal or seismic activity. As a result, requirements for extensive and lengthy environmental surveys, prior to granting an approval under the EPBC Act could be removed or significantly reduced, and therefore substantially reducing the time taken to move from exploration and discovery of new energy resources, through to the production of these resources.