

1 November 2019

Attorney-General's Department  
Attn: [IRconsultation@ag.gov.au](mailto:IRconsultation@ag.gov.au)

Dear Sir or Madam,

**RE: Submission to the Attorney General's project life greenfields agreements discussion paper**

The Australian Petroleum Production & Exploration Association (APPEA) is the peak national body representing upstream oil and gas explorers and producers active in Australia. APPEA's member companies account for more than 90 per cent of Australia's petroleum production. Further information about APPEA can be found on our website, at [www.appea.com.au](http://www.appea.com.au).

APPEA welcomes the opportunity to comment on the *Attracting major infrastructure, resources and energy projects to increase employment - Project life greenfields agreements* discussion paper. The comments should be read in conjunction with comments from our member companies, APPEA's previous publication, *Improving Labour Productivity: A Regulatory Reform Agenda*<sup>1</sup>, and in support of the submission to this discussion paper made by the Australian Mines and Metals Association (AMMA).

### Background

APPEA seeks to work with Australian governments to help promote the development of the nation's oil and gas resources in a manner that seeks to maximise the benefits of the industry to the Australian industry and community. The oil and gas industry is an integral part of the Australian economy, including through:

- the supply of reliable and competitively priced energy;
- the investment of hundreds of billions of dollars of capital;
- the direct payment of billions of dollars in taxes and resource charges to governments;
- the direct employment of tens of thousands of Australians; and
- the generation of significant export earnings.

The Australian oil and gas industry has invested over \$350 billion in natural gas production, transport, liquefaction and export facilities over the last decade, giving it a unique perspective on the application of greenfield agreements.

### International context

The share of emerging Asian economies in total LNG demand is set to grow further with additional countries – Bangladesh and potentially Myanmar, Vietnam and the Philippines – joining the ranks of

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<sup>1</sup> [https://www.appea.com.au/wp-content/uploads/2014/04/APPEA\\_ILP-report\\_web.pdf](https://www.appea.com.au/wp-content/uploads/2014/04/APPEA_ILP-report_web.pdf).

importers of LNG. The International Energy Agency (IEA) in its *World Energy Outlook 2018* (WEO) estimated that there are 993 million people without electricity and another 2.7 billion do not have access to clean cooking facilities.<sup>2</sup> As the standards of living for these people improve and they move out of poverty, they will consume more energy for household and industrial purposes. The WEO estimates lack of access to clean cooking facilities is the cause of more than 2.6 million deaths globally per year.<sup>3</sup>

According to the International Energy Agency (IEA), global gas demand is forecast to increase by 43 per cent to 2040 at an annual rate of 1.6 per cent.<sup>4</sup> Gas share of global energy demand will increase to a quarter, overtaking coal to be the second largest fuel source after oil. By 2040, industrial use of gas is forecast to increase by 66 per cent.<sup>5</sup> The IEA forecasts inter-regional gas trade is expected to increase by 67 per cent, totalling 1289 bcm by 2040. By 2040, 59 per cent of international gas trade is expected to be in the form of LNG, with LNG trade accounting for 84 per cent of the growth to 2040.

The Australian oil and gas industry is well placed to capitalise on the opportunity ahead with a significant investment of more than \$350 billion in production capacity over the last decade. This investment will deliver returns for Australia with export income increasing to more than \$50 billion in 2018-19, more than double compared to \$22.3 billion in 2016-17. This growth means LNG is one of Australia's greatest export earners.

### **Australia's regulatory environment presents challenges to ongoing investment**

A key challenge in achieving future growth in the industry is maintaining Australia's competitiveness in the face of a changing global energy sector. Australia's oil and gas industry operates in a high-cost environment with complex domestic regulatory framework. This is in addition to the high-risk nature of commercially developing oil and gas finds in the face of lower returns on investment than other jurisdictions.

Being a relatively high-cost producer combined with a relatively complex domestic regulatory framework and ongoing policy uncertainty will continue to make it challenging for Australia to capture the next wave of global investment in the LNG sector. If Australia is to capture further investment in LNG production, it is vital to get the policy settings right by maintaining a stable and competitive tax regime and reducing regulatory costs.

Key policies include:

- allowing transparent, open and secure access to resources for exploration and development;
- supporting investment and industry productivity through a stable taxation regime that recognises the costs of doing business; and
- facilitating access to domestic and international markets on globally competitive terms.

Greenfields agreements also play a critical role for Australia's oil and gas industry, having underpinned much of the industrial relations framework for the rapid expansion of the industry. A greenfields agreement is a type of enterprise agreement between the project (typically the head contractor) and employee organisations (unions). Its purpose is to provide projects with greater "certainty" around terms and conditions and allows estimates to be made of projected labour costs as part of determining project viability/profitability. A number of issues associated with these

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<sup>2</sup> International Energy Agency, *World Energy Outlook 2018*, November 2018, p. 85, Paris.

<sup>3</sup> International Energy Agency, *World Energy Outlook 2018*, November 2018, p. 85, Paris.

<sup>4</sup> International Energy Agency, *World Energy Outlook 2018*, November 2018, p. 526, Paris.

<sup>5</sup> International Energy Agency, *World Energy Outlook 2018*, November 2018, p. 526, Paris.

provisions have been identified in previous reviews of the legislation. For example, in 2012 the former Gillard Government's own commissioned review into the FW Act reached the following conclusion:

*...based on the evidence we have received in submissions and consultations, and a review of the data associated with Greenfields agreements ... we consider that there is a significant risk that some bargaining practices and outcomes associated with Greenfields agreements potentially threaten future investment in major projects in Australia.<sup>6</sup>*

The regulatory environment is a major consideration for global capital investment, and consequently Australia's workplace relations system is a significant factor in that consideration. As an industry with significant reliance on inflows of global capital, allowing enterprise agreements to run for the duration of a major project's construction would significantly contribute to the certainty and stability required by that investment. Providing industrial stability and certainty to project proponents to lock-in labour costs for the duration of a project's construction and in turn deliver greater certainty overall to a project's costs and completion timeframes.

APPEA noted in its *Improving Labour Productivity: A Regulatory Reform Agenda* report that the current regulatory framework governing enterprise bargaining is inflating labour costs and reducing productivity outcomes on major project construction in Australia. This increases the cost of constructing major oil and gas projects and impairs the ability of the oil and gas sector to attract further investment.

By contrast, a successfully functioning workplace relations system on major projects should support:

- Australia's overriding need to build internationally competitive projects.
- Greater price certainty and control over cost increases over the life of the project.
- Confidence that budget and schedule commitments can be met.
- Wage rates and conditions that are reflective of labour market conditions and the broader economic and industry climate. Project owners need to be more confident about the cost of labour over the full life-span of construction of any given project.

## Conclusion

APPEA commends the Government's review into Greenfields agreements. Any changes made to Australia's workplace relations system must be practical and sensible. A high-cost local environment and the emergence of new LNG rivals in East Africa, North America and other parts of the world has increased the level of competition Australia faces as it seeks to win market share and attract investment in LNG and other natural gas development. As we look to secure the next phase of investment in our growing industry, it is important that Australia address the costs and productivity challenges affecting current and future waves of investment in the oil and gas industry.

Allowing for the creation of Project Life Agreements would greatly assist the oil and gas industry's ongoing development and help secure further international investment at a time of increasing competition for scarce global capital.

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<sup>6</sup> Fair Work Act Review (2012), *Towards more productive and equitable workplaces: an evaluation of the Fair Work legislation*, 2 August, p. 171 (available at [www.employment.gov.au/fair-work-act-review](http://www.employment.gov.au/fair-work-act-review)).