

28 May 2013

Senate Standing Committees on Economics
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Australian Jobs Bill 2013: Submission from the Australian Petroleum Production & Exploration Association

The Australian Petroleum Production & Exploration Association (APPEA) is the peak national body representing Australia's oil and gas exploration and production industry. APPEA has more than 80 member companies actively exploring for and/or producing Australia's oil and gas resources. These companies currently account for around 98 per cent of Australia's total oil and gas production and the vast majority of exploration. APPEA also represents over 250 service companies providing a range of goods and services to the industry. Further details about APPEA can be found at www.appea.com.au.

The comments outlined below are intended to be read in conjunction with APPEA's earlier submission to the Committee dated 19 April 2013 in relation to the Exposure Draft of the *Australian Jobs Bill 2013* (the Bill). We note that many of APPEA's previous concerns have not been addressed in the current Bill.

Overall, APPEA does not believe that a case has been made to justify the imposition of a complex and potentially time consuming regulatory process. The approach proposed in the Bill is unlikely to significantly increase opportunities beyond those created by the extensive efforts already employed by the oil and gas industry to provide full, fair and reasonable opportunity to local suppliers.

Current and Previous Efforts to Increase Australian Industry Participation

The industry has a strong and demonstrated record of active engagement in exploring and implementing processes for enhancing the ability of local suppliers to participate in the resource development process. Industry already recognises the many benefits provided by local suppliers¹ and is investing heavily both in financial terms and in the development of collaborative relationships to address priority areas of capability, capacity, skills and training gaps, which are seen as key to improving the participation of Australian suppliers globally. Examples of industry engagement include:

- Industry Capability Network (ICN);
- National Resources Sector Employment Taskforce;
- Western Australian Government's Local Industry Participation Framework;

¹ Including in relation to faster turnaround of services, localised employment, improved timings and improved communication.



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- Western Australian Government State Agreement Acts;
- New South Wales Government Procurement Local Jobs First Plan;
- Queensland Industry Participation Plan 2011; and
- Queensland Resources and Energy Sector Code of Practice for Local Content.

Most recently, APPEA and its members have engaged with the Australian Government's Buy Australian at Home and Abroad program and the Resources Sector Supplier Advisory Forum and associated initiatives. Considerable effort is therefore being expended by oil and gas companies to promote local participation within these processes.

Examples of individual company efforts were quantified in a 2012 report by Australian Venture Consultants, which examined a sample of 59 individual construction phase contracts that have been awarded to Australian businesses. The report examined 48 specific samples (including some that were awarded offshore and contracted back to Australian businesses) where the contract value disclosed totalled A\$12.3 billion, or an average contract value of A\$256 million.²

The Bill will Increase Complexity, Uncertainty and the Cost of Compliance

While it is noted that there have been some minor amendments to the legislation made after the initial review by the Committee, a number of proposals included in the Bill potentially impose additional regulatory burdens on companies. In addition to the points raised in our submission to the Exposure Draft, APPEA notes the following concerns:

- 'Trigger Date'. It is noted that the prescribed triggers remain largely the same as in the Exposure Draft, and are now split across three classifications of 'trigger date', 'trigger event' and 'interim period'. This further complicates an already complex framework. The ability for the Authority and the proponent to work together to identify an appropriate 'trigger date' should be identified as the first step in this process, as it is likely to be the most effective way of determining a meaningful point in time for consultations to commence.
- The proposed 'one-size-fits-all' approach that is contemplated in the Bill, and reflected particularly in the definition of a trigger date, fails to adequately recognise the complex decision making processes involved in the oil and gas industry. As an example of the complexity of projects in the resources sector, Attachment 1 provides an extract from an issues paper recently prepared by the Productivity Commission that outlines the key stages in the exploration, production and processing chains. In its current form, the legislation has the potential to require a project proponent to prepare a detailed AIP plan prior to the conclusion of the exploration phase of a project.
- Section 2A introduces a requirement for companies to provide notification of an estimated completion date for a new relevant facility, at the same time as an AIP Plan is provided to the AIP Authority. It should be noted that a completion date provided at this time would likely be highly speculative and subject to change, as

² Australian Venture Consultants, 'The Wider Contribution of the Oil and Gas Industry to the Australian Economy: A selection of case studies', <http://www.appea.com.au/images/stories/Reports/the%20wider%20contribution%20to%20the%20economy.pdf>

it is influenced by a significant number of external factors across the course of project development.

- It is noted that reference to the Minister has been removed from a number of sections (e.g. 17(6), 36(d), 41(3)(c), 46(2)(b), 47(2)(b) and 49(3)) and replaced with a reference to the legislation. APPEA believes that a clear statement as to the intent of these changes is necessary as a matter of priority.

A Need to Recalibrate Local Content Measures

It is APPEA's view that there is no demonstrated requirement for this legislation, based on the existing measures already implemented by the industry, which have been achieved proactively and largely without regulation.

A clear example of this is the proposed requirement under Section 35(1)(h) for companies to have a designated procurement contact officer, with the Industry Department estimating that this will cost a company \$232,000 on average. This is a measure which most major projects already have in place, and is an example of interference in business processes to be created by the Bill without a demonstrated rationale or benefit to local content levels.

APPEA considers that:

- Greater benefits would be delivered by focussing on building the capacity and capability of Australian suppliers to enable them to compete internationally.
- Most major projects already have mechanisms in place to achieve the objectives of the proposed legislation, which is to make supply opportunities more visible. On this basis, any opportunities resulting from increased transparency measures would already have been achieved.
- Any reforms need to recognise that development of a competitive local service sector is of shared interest to industry, suppliers and government, and responsibility should rest with all parties to remove impediments to increase supplier participation.

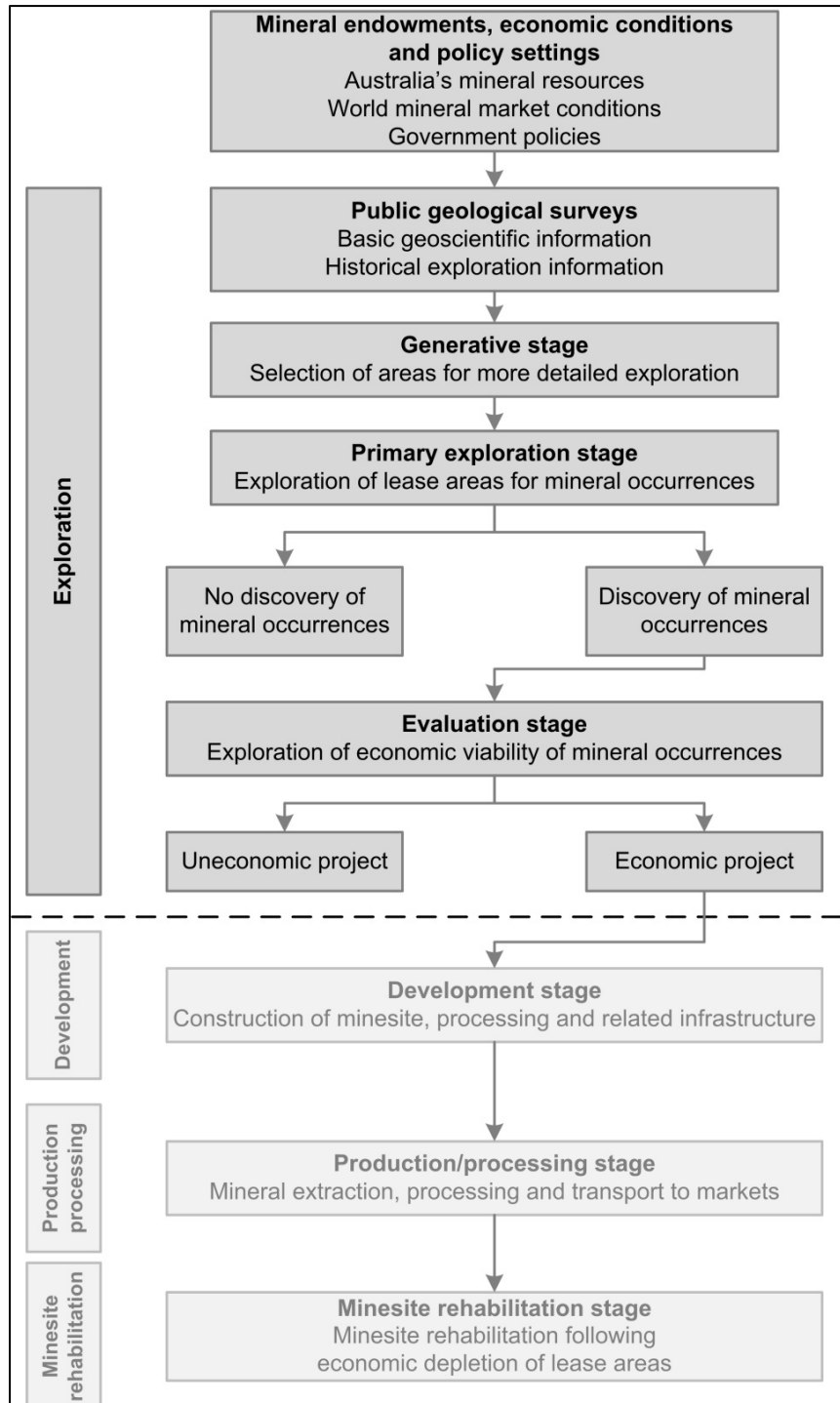
Without addressing these core issues of capability and competitiveness, the Bill will not significantly increase local content outcomes. Failure to make these areas a central pillar of reform will mean that Australia will squander its opportunity to maximise the development potential of its natural resource base.

We would be pleased to expand on any of the points discussed in this submission. Any queries may be directed to Stedman Ellis, Chief Operating Officer – Western Region

Yours sincerely

David Byers
CHIEF EXECUTIVE

Key stages in the petroleum and mineral exploration, production and processing activity chains: (Source: Productivity Commission Mineral and Energy Resource Exploration – Issues Paper, December 2012)

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