

**INQUIRY INTO PETROLEUM (ONSHORE) AMENDMENT
(CANCELLATION OF ZOMBIE PETROLEUM
EXPLORATION LICENCES) BILL 2021**

Organisation: Australian Petroleum Production & Exploration Association
(APPEA)

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Mark Banasiak
Committee Chair
Portfolio Committee No.4 – Industry
NSW Legislative Council

Via email

Inquiry into the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021

Dear Mr Banasiak

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 95 per cent of Australia's petroleum production. Further information about APPEA can be found on our website, at www.appea.com.au.

APPEA welcomes the opportunity to provide comment to the Committee's consideration of the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021. This submission incorporates the views of APPEA members.

APPEA does not support the intent of the Bill.

Australia is a leading producer of oil and natural gas and has an abundance of reserves which will last for many years to come. It is the development of these reserves and basins that will deliver the reliable supply of energy that is essential to the economic prosperity of Australia, and the continued delivery of clean energy to trading partners through our region and beyond. Stability of resource access is critical for that to continue to occur.

Reliable, secure and competitively priced energy is crucial to our everyday lives in Australia. Within this framework, oil and gas plays a key role in meeting many of our energy needs. Our abundant natural gas resources in particular, place Australia in an enviable position to maintain long-term, cleaner energy security domestically and internationally. Maintaining and enhancing this contribution will be vital as Australia looks to its recovery from the COVID-19 recession.

This means that the stakes are high in realising the industry's potential benefits. The decisions the NSW State Government makes around the renewal of petroleum exploration licences, and the potential extinguishment of so-called Zombie PELs, feed into this investment environment, and will play an important role in determining whether the industry can realise its potential and whether the NSW economy benefits from new upstream oil and gas investment opportunities.

Natural Gas in NSW

The NSW Government has recognised natural gas will have a strong and ongoing role in delivering affordable energy now and into the future for local industry, businesses and households. More than one million family homes and 33,000 businesses rely on natural gas as a source of energy in NSW. These businesses account for nearly 300,000 jobs in NSW.

According to the Australian Energy Market Operator (AEMO) New South Wales will continue to steadily increase its gas use and gas fired generation will remain an important source of peaking capacity for the State. In a grid with the potential for a high penetration of variable renewable energy, the flexibility provided by gas power is expected to play a key role to help meet evening peak electricity demand once solar generation declines, or overnight under low wind conditions.

NSW remains heavily reliant for its supplies of natural gas through pipeline imports, principally from Moomba in South Australia via the Moomba to Sydney Pipeline, and from Longford in Victoria via the Eastern Gas Pipeline. Given that NSW relies on gas imports from other states, through pipelines, during a high peak demand day when gas usage is high, this leaves NSW exposed to a possible supply constraint. These possible supply constraints are more likely if there is a no domestic supply of gas in NSW

The east coast gas market is at an important stage of its development. A continuing failure to unlock new gas supplies will place homes and businesses under increasing and unnecessary price and supply pressure. The most effective way to place downward pressure on prices is to increase investment and supplies. Government actions are needed to address supply tightness and climbing energy costs.

Regulatory stability is important for investment confidence

A study conducted by Energy Consulting Firm Wood Mackenzie and the accompanying report ("the report")¹ identified that Australia's oil and gas industry has been built on a stable and predictable regulatory and fiscal setting.

The report examined the conditions precedent to ensure investment can occur. Of particular focus was the decade (1999 to 2009) of regulatory stability provided the foundation for an unprecedented wave of investment and activity through the early 2010s.

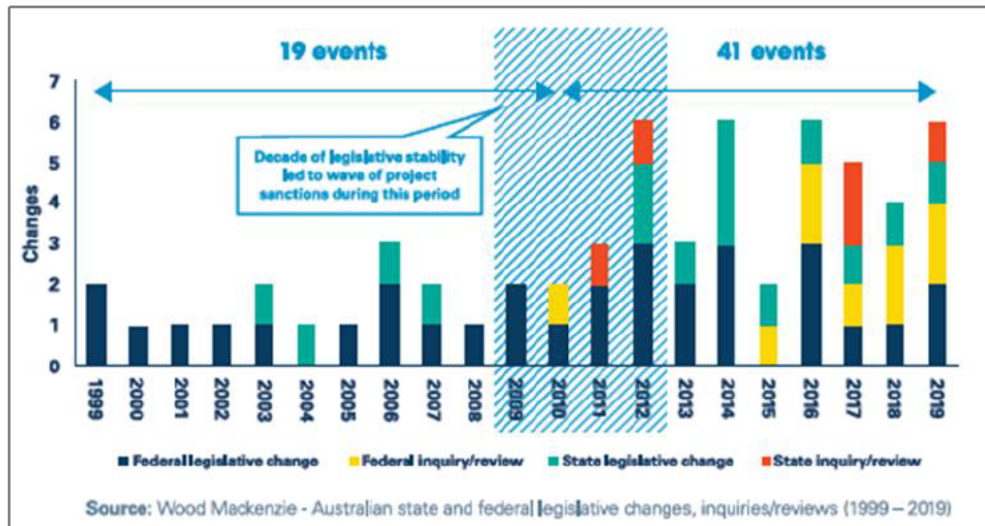
The period saw the investment of approximately AU\$350 billion, and such a scale of investment has delivered direct and indirect benefits in the form of long-term tax payments to governments, increased local employment, supply chain growth through the reliance of local communities to service works, industrial activity to service construction, infrastructure build out, education and upskilling of workers.

The significant contributions and more recent successes of Australia's oil and gas industry has made Australia a world leader in energy supply. This has now culminated in Australia receiving a significant and lasting increase in its export terms of trade account as the country topped Qatar as the largest exporter of LNG. This is even more significant when considered in the context of the oil and gas industry being truly global, and where projects must compete against each other on a global scale for a limited pool of funds available for both exploration and resource development.

¹ Australia Oil & Gas Industry Outlook Report: <https://appea.com.au/wp-content/uploads/2020/06/Australia-Oil-and-Gas-Industry-Outlook-Report.pdf>

However, regulatory instability, intervention and uncertainty since 2010, coupled with being a high cost² destination for doing business has diminished the attractiveness of Australia as an investment destination and in doing so, has reduced the investment appetite of many industries, and not just the oil and gas industry.

Chart 1: Australian state and federal legislative changes, inquiries, and reviews – 1999 to 2019



Even before the onset of the COVID-19 pandemic, oil prices had begun to fall sharply and this was exacerbated by the global pandemic. The shutdown of industry and businesses the world over and billions of people living in lockdown significantly reduced demand for oil and gas. Oil prices fell more than 75 per cent in the first four months of 2020. With most of the world still grappling with the virus, capital markets remain depressed and volatile. Investor confidence is low and the capital needed to kickstart new oil and gas projects is in short supply. The result is a ‘triple whammy’, impacting the industry’s appetite for the new investments. The task the industry, and Australia more broadly, now faces is how to restore confidence, encourage investment and return to growth.

The economic dividends from securing a new wave of oil and gas developments are large. Economic analysis prepared by EY as part of their report, *Australia’s oil and gas industry: kickstarting recovery from COVID-19*, finds that if we can secure the key projects which are in the industry pipeline, then under their “high growth trajectory” scenario national economic output is estimated to increase by over \$350 billion with over 220,000 jobs created over the next two decades.

This means that as the industry grapples with challenging market conditions and fierce competition for scarce investment capital, regulations which suppress the industry’s potential to develop Australia’s resources, like those proposed by the *Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021* can impose heavy economic costs. The economic efficiency losses of regulations which prevent the industry’s investment pipeline from being realised could far exceed those from Australia’s worst performing taxes. In fact, for every billion dollars of industry activity lost through regulation there could have an overall efficiency loss of up to \$1.79 billion to the economy. Such costs should be recognised alongside the potential social and environmental risks of projects which many regulations are seeking to manage or avoid.

² Also adding to this costs is the fact that Australia’s oil and gas resources are more geographically remote and more difficult to develop.

In contrast, the gains from reinvigorated activity in the oil and gas industry have the potential to spread throughout the economy, providing a kickstart for Australia's industrial base by lowering energy prices, boosting demand for services, and generating wealth for all Australians.

Significant caution needs to be exercised when considering regulatory interventions that risk the attractiveness of Australia as an investment destination for upstream oil and gas industry investment and which send worrying signals to both domestic and international investors and major trading partners. These include investors and trading partners with whom the Australian industry has spent a generation building relationships. These trading partners are also, in many cases, significant investors in Australian natural gas projects.

Regulatory stability underpins exploration

Oil and gas production is underpinned by exploration. Without further exploration, production will begin to decline, compromising Australia's energy security and prosperity.

Exploration for petroleum is critical to ensure ongoing supply – it's essential for energy security, economic growth, long-term regional development and jobs, improved infrastructure, and value-add to our manufacturing industries.

Exploration is an expensive activity with a low chance of commercial success, and oil and gas explorers can choose to invest in many parts of the world.

Australia has excellent potential for additional oil and gas resources, but the country remains underexplored. Vast onshore and offshore basins potentially containing significant untapped resources remain unexplored.

The stability of the exploration licence system is critical to further supporting exploration in NSW. The issue that is the subject of this Inquiry is the Amendment that would ensure an exploration licence expires at the end of its term unless it is renewed, and to cancel exploration licences that remain in force because of a pending renewal application. The intent behind this amendment is to address uncertainty about future potential gas exploration. The legislative provision that allows a permit to remain in force while a decision by the Government is outstanding is a standard feature of regulatory systems around Australia. They are appropriately designed to provide certainty to explorers where a delay to make a decision (including during caretaker periods, elections and other interventions) does not unduly penalise the titleholder. Far from being a 'loophole' this is common feature of other legislation to reduce sovereign risk. **Attachment 1** outlines mirror legislation in other jurisdictions.

Petroleum Exploration Licences are a well-established process by which the State Government encourages exploration within a specified area. The purpose of such licences is to locate areas where resources may be present and establish the quality and quantity of those resources. The licence gives the holder the right to explore for petroleum within the exploration licence area during the term of the licence.³

However, the proposed amendment ignores that PELs are not an automatic entitlement to explore for a resource, and there are numerous steps prior to any approval for exploration that must be met

³ www.resourcesandgeoscience.nsw.gov.au/miners-and-explorers/applications-and-approvals/mining-and-exploration-in-nsw/about-petroleum-titles

before exploration may take place. Explicitly, exploration cannot take place until the NSW Government has approved that activity within the PEL. Exploration licenses only provide the proponent with the exclusive right to apply for more approvals.

An additional existing safeguard for landholders is that if exploration is approved, an explorer must enter into a written access arrangement with the landholder before entering land to carry out exploration activities. This is a well-established system, which gives assurance to landholders and explorers alike.

The second reading speech identified several PELs that have remained undeveloped or do not have active work plans attached to them. This conveniently ignores the fact that until the approval of the Narrabri gas project there had been no approval of work programs by the NSW State Government following the commencement of the Independent Review of Coal Seam Gas Activities in NSW undertaken by NSW Chief Scientist, Mary O'Kane in February 2013.⁴ Furthermore, our member companies have spent over \$1.5 Billion over the last 10 years exploring and appraising the natural gas resources in New South Wales in the authorised Permits in which they were able to operate. As noted above, without the approval of the PEL applications, no exploration is able to take place.

APPEA recommends that the Bill be rejected, and instead Government and Members should work with industry to understand the commercial drivers and requirements for resource development to occur in NSW.

Yours sincerely

Ashley Wells
NSW Director

⁴ <https://www.chiefscientist.nsw.gov.au/independent-reports/coal-seam-gas>