

## fracking inquiry

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**From:** Matthew Doman [REDACTED]  
**Sent:** Sunday, 25 February 2018 10:41 PM  
**To:** fracking inquiry  
**Cc:** [REDACTED]  
**Subject:** APPEA: additional comments on the Draft Final Report  
**Attachments:** APPEA Supplementary Comments on DFR 250218.pdf

Dear Inquiry Taskforce,

Please find attached APPEA's final comments on the Draft Final Report. This is to read in conjunction with our initial comments submitted on 31 January.

Kind regards,

**Matthew Doman**

Director – South Australia / Northern Territory  
Australian Petroleum Production & Exploration Association

t [REDACTED]  
m [REDACTED]  
e [REDACTED]  
w [www.appea.com.au](http://www.appea.com.au)  
tw [REDACTED]

Level 1, 277 Rundle Street  
Adelaide SA 5000

Level 1, 48-50 Smith Street  
Darwin NT 0800



25 February 2018

Justice Rachel Pepper  
Chair  
Scientific Inquiry into Hydraulic Fracturing in the Northern Territory  
GPO Box 4396  
Darwin, NT 0801, Australia

Email: [fracking.inquiry@nt.gov.au](mailto:fracking.inquiry@nt.gov.au)

Dear Justice Pepper,

The Australian Petroleum Production & Exploration Association welcomes the opportunity to provide these final comments on the Draft Final Report of the Scientific Inquiry into Hydraulic Fracturing in the Northern Territory (the Draft Report) and the recent public hearings. APPEA's comments should be considered in conjunction with individual submissions by our members.

Consistent with APPEA's response to the Draft Report dated 31 January 2018, and subsequent individual responses from our members, in particular from Origin and Santos dated 25 February 2018, industry accepts or supports with clarification the overwhelming majority of the Panel's recommendations. There are however a number of recommendations that continue to cause us significant concern.

On the basis of the information presented at the final round of public hearings and submissions publicly available at the time of writing, industry does not expect to see material deviations in the vast majority of recommendations to be presented in the Final Report. Based on our understanding that this Inquiry effectively concludes with the publication of your Final Report next month, we will make our comments on that report directly to Government.

During the recent public hearings there were various arguments put forward, urging the Panel to reconsider the implementation timing for certain recommendations, in particular seeking to delay the resumption of planned exploration activity until after the proposed SREBA process is completed. Industry does not believe that a sound scientific case has been put forward that challenges the extensive scientific research and detailed consideration undertaken by the Panel, and incorporated in the Draft Report.

APPEA understands that the Panel is however considering issues around the timing of baseline assessments and the proposed SREBA. APPEA believes a resumption of limited exploration and appraisal activity along with the commitment to, and delivery of, an open and rigorous baseline assessment process will not negatively impact the veracity of those baseline assessments and will have a positive impact on community acceptance and social license.

Several submissions to the Inquiry have underlined the relative small scale and low impact of exploration and appraisal activity, including on pages 38 to 42 of Origin's 30 April 2017 submission #153 Part A.

As rightly considered in the Draft Final Report, the development of strategic regional baselines can be undertaken in parallel to low-risk Exploration activities. Exploration assists the collection of baseline data and does not impact on the validity of pre-disturbance studies.

The SREBA framework is broader in scope than other similar assessment processes (such as what has been developed and applied by the Commonwealth Government for the assessment of regions affected, or potentially affected, by large coal mines or by the extraction of CSG)<sup>1</sup>. A SREBA as proposed by the Panel would consist of extensive physical, biological, public health, social and cultural components, to address the key knowledge gaps. None of the proposed components of the SREBA would be incompatible with proposed exploration and appraisal activities:

Establish a baseline for groundwater and surface water hydrology.	<i>This can be done in conjunction with exploration activities without jeopardizing the validity of pre-impact baseline studies. Exploration and appraisal programs are designed to better understand the target formations, and surrounding water resources.</i>
Characterise the hydrostratigraphy of the region	<i>Developing detailed understanding of hydrographic properties of aquifers, aquitard and geologic frameworks is improved by exploration and appraisal programs. The validity of the results are not impacted by exploration or appraisal activities.</i>
Quantify recharge rate	<i>Recharge rate would not be impacted by exploration and appraisal activities.</i>
Develop a suitably calibrated groundwater-surface water flow model	<i>Groundwater- surface flow model would not be impacted by exploration and appraisal activities.</i>
Establish a baseline for water quality	<i>Baseline water quality studies would not be impacted by exploration and appraisal activities. To remove all doubt, appropriate transparency and independent validity of groundwater quality data can be implemented.</i>
Determine locations of ecologically important temporary waterbodies and dry season aquatic refugia	<i>Groundwater- surface flow model would not be impacted by exploration and appraisal activities.</i>

<sup>1</sup>Draft Final Report – Page 395.

Characterise the wet season surface water flow regime	<i>Historical baseline studies of seasonal (Dry and Wet) variations in surface flow would not be impacted by exploration and appraisal activity.</i>
Characterise the dependency or degree of influence of ecosystems by groundwater, and their likely sensitivity to shale gas-related water abstraction.	<i>Studies into groundwater dependent ecosystems would not be impacted by the small water requirements of exploration and appraisal activities.</i>
Characterise inter-annual and seasonal water quality variability with particular focus on dry season aquatic refugia	<i>Pre-development studies of inter-annual variability in water quality characteristics would not be impacted by exploration or appraisal activities.</i>
Identify locations of high conservation value within affected Interim Biogeographic Regionalisation Assessments (IBRA) through systematic survey of vascular plants, vertebrates and selected invertebrate taxa.	<i>Consideration of conservation values in IBRA bioregions can be taken into account during exploration activities, such as by Santos in the 2016 Southern Amadeus Seismic Program.</i>
Determine if any threatened species are likely to be seriously affected by the cumulative effects of habitat loss and fragmentation that could accompany any onshore shale gas development	<i>The potential for exploration and appraisal programs to impact on this recommendation is minimal. Appraisal and exploration is vital in considering future cumulative impacts of petroleum development.</i>
Establish a regional baseline for methane concentrations and fluxes	<i>Regional baseline of methane concentrations and fluxes would not be impacted exploration or appraisal activities. Definitive source estimation, spatial detection and relative abundance results would identify methane emission sources that may be attributed to exploration activity.</i>
Identify any locations that have substantively higher emissions than the regional average	<i>As above, Definitive source estimation would attribute higher emissions sources during exploration and appraisal activities.</i>
Baseline human health, investigate frequency and duration of the occurrence of symptoms commonly associated with irritant substances.	<i>Highly unlikely to be impacted by exploration and appraisal activities.</i>
Social impacts of any onshore shale gas industry must be assessed in accordance with the strategic SIA	<i>Social impact assessment (SIA) would not be impacted by exploration and appraisal activities. Exploration and appraisal required to effectively identify regions most likely to have development potential.</i>



In the event that the moratorium is lifted, it is critical that exploration, appraisal and delineation<sup>2</sup> of onshore gas resources is able to resume promptly to further develop our understanding of the region's environment, geology and water resources and to maintain the goodwill that exists with our host communities. As demonstrated throughout the Draft Report and by Panel members during recent public hearings, this activity is low-risk, has a very small surface footprint and can proceed while the recommendations of the Inquiry are considered and implemented.

With this in mind and further to the Panel's questions during APPEA's hearing on 6 February 2018, it is important to distinguish in a number of recommendations the appropriate activity phase that the Panel has accepted should correspond to the level of risk being mitigated. APPEA notes the Draft Report uses the grant of a Production Licence (PL) in a number of recommendations as the point at which specified mitigation measures should be implemented. To clarify, a PL is a tenure/title management instrument that does not in itself authorise activity.

Any proposed development and/or production activity subsequent to the grant of a PL is required to go through an extensive assessment process prior to being approved (this applies under the existing regulatory framework). Industry therefore considers that "*approval of a development and production activity*" should replace "*grant of a production licence*" in the following recommendations: 7.1, 7.4, 8.1, 10.1, 10.2, 11.8, 14.16 and 15.1. This will better align the Panel's recommended mitigation measures with the commensurate level of risk associated with the scale of activity.

APPEA's opening statement at our recent appearance before the Panel made reference to two reports as evidence of the significant positive local business and community benefits from the onshore gas industry in Queensland, in particular in regional areas. These reports are:

- APPEA's November 2017 report to the COAG Energy Council on Unconventional Gas in Australia<sup>3</sup>; and
- APPEA's submission<sup>4</sup> to the Senate Select Committee on Unconventional Gas Mining (Lazarus Inquiry).

APPEA's report to the COAG Energy Council shows Queensland's oil and gas industry in 2016-17 employed some 27,000 people, including 23,000 indirect jobs, many in regional areas (p25). Those figures are down from 40,000 and 35,000 respectively in 2015-16 as the construction phase wound down. The report also shows \$15 billion of industry investment has helped sustain 3,100 local Queensland businesses (p5).

APPEA's submission to the Lazarus inquiry details on pp 61-64 over \$38 million spent on local regional community initiatives by the Santos GLNG project.

During APPEA's recent hearing the Chair and Panel members sought clarification on a small number of our written responses to the recommendations in the Draft Report. Further to our hearing responses, we offer the following additional comments:

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<sup>2</sup> As described in section 5.2.2 and Figure 5.2 on pp 37-38 of the Draft Final Report.

<sup>3</sup> see: [www.appea.com.au/wp-content/uploads/2017/11/APPEA-Report-to-CoAG-Unconventional-Gas-in-Australia-23-November-2017.pdf](http://www.appea.com.au/wp-content/uploads/2017/11/APPEA-Report-to-CoAG-Unconventional-Gas-in-Australia-23-November-2017.pdf)

<sup>4</sup> [www.appea.com.au/wp-content/uploads/2016/04/APPEA-Submission-Lazarus-Inquiry-final.pdf](http://www.appea.com.au/wp-content/uploads/2016/04/APPEA-Submission-Lazarus-Inquiry-final.pdf)

No.	Recommendation	APPEA Comment
14.9	<p>That any person may lodge an objection to the proposed grant of an exploration permit.</p> <p>That the Minister must, in determining whether to grant or refuse the application, take into account the objections received, and that all objections received by the Minister be published.</p>	<p>This recommendation should be amended such that any person with “standing” may lodge an objection.</p> <p>APPEA continues to argue that standing be limited to proponents and directly or indirectly affected stakeholders.</p>
14.21	<p>That the Petroleum Act and Petroleum Environment Regulations be amended to allow open standing to challenge administrative decisions made under these enactments.</p>	<p>APPEA continues to argue that standing be limited to proponents and directly or indirectly affected stakeholders.</p> <p>Should the Panel seek to more clearly define the parties who, at a maximum, have standing, the parties listed in Recommendation 14.22 should suffice.</p>
14.22	<p>That merits review be available in relation to decisions under the Petroleum Act and Petroleum Environment Regulations including, but not limited to, decisions in relation to the granting of exploration permits and approval of EMPs.</p> <p>That the following third parties, at a minimum, have standing to seek merits review:</p> <ul style="list-style-type: none"> <li>• proponents (that is, gas companies) who are seeking a permit, approval, application, licence or permission to engage in onshore shale gas activity;</li> <li>• persons who are directly or indirectly affected by the decision;</li> <li>• members of an organised environmental, community or industry group;</li> <li>• Aboriginal Land Councils;</li> <li>• local government bodies; and</li> <li>• persons who have made a genuine and valid objection during any assessment or approval process.</li> </ul> <p>That an independent body, such as NTCAT, be given jurisdiction to hear merits review proceedings in relation to any onshore shale gas industry.</p>	<p>APPEA continues to argue that standing be limited to proponents and directly or indirectly affected stakeholders.</p> <p>Should the Panel seek to more clearly define the parties who, at a maximum, have standing, the parties listed in this recommendation should suffice.</p>

14.23	Where litigation is brought genuinely in the public interest, that costs rules be amended to allow NT courts to not make an order for the payment of costs against an unsuccessful public interest litigant.	We suggest that this recommendation be improved by including the proposed cost rule consideration criteria outlined in paragraph three on page 378 of the Draft Report, with the additional criteria that those bringing “public interest” litigation have standing, as defined in our responses to 14.21 & 14.22 above, consistent with APPEA’s submissions to the Inquiry.
14.31	That in order to ensure independence and accountability, there must be a clear separation between the agency with responsibility for regulating any onshore shale gas industry and the agency responsible for promoting that industry.	<p>This a matter for government, but a single regulator, that regulates and grants approvals on all petroleum activities including shale gas activity, is the preferred regulatory model.</p> <p>As indicated in our 6 February appearance before the Panel, South Australia has consistently been ranked as Australia’s most attractive petroleum regulatory framework by the well-respected Fraser Institute Annual Petroleum Survey<sup>5</sup>. SA’s regulatory agency, the Department of State Development, does promote economic development, but that has in no way impacted the effectiveness of its regulatory function.</p>

We again thank the Panel and your staff for your conduct of this Inquiry, which is so critical to the future economic and social development of the Northern Territory. We eagerly await the release of your Final Report next month and the response of the NT Government.

Please contact Mr Adam Welch, Senior Policy Adviser, on [REDACTED] or [REDACTED] should you or your staff wish to discuss any aspect of this letter and/or the conclusion of your Inquiry process.

Sincerely,



**Matthew Doman**  
Director – South Australia/Northern Territory

<sup>5</sup> See: [www.fraserinstitute.org/studies/global-petroleum-survey-2017](http://www.fraserinstitute.org/studies/global-petroleum-survey-2017)