

20 September 2017

Ms Sally Barnes
Director of National Parks
Department of Environment and Energy
PO Box 787
CANBERRA ACT 2601

Via email: managementplanning.marine@environment.gov.au

Dear Ms Barnes,

Draft Commonwealth Marine Park Management Plans

Thank you for the opportunity to comment on the draft management plans for Australia's marine park network. The Australian Petroleum Production & Exploration Association (APPEA) is the peak industry association representing oil and gas explorers and producers in Australia. APPEA supports the marine park network and has actively engaged with all governments since Australia committed to establish a system of marine protected areas in 1993. Our members are committed to sustainable resource development by protecting the environment and maintaining public health and safety during all phases of our operations.

Australia's offshore oil and gas industry provides a significant public good to the nation through the generation of wealth, jobs and local business opportunities and by helping to meet vital energy security goals. According to the Australian Institute of Marine Science, the offshore oil and gas industry represents \$60 billion in economic activity and has underpinned 43,000 jobs in 2015.¹ Reliable and efficient access to offshore areas for oil and gas exploration and production is essential to Australia's future economic prosperity.

For over 50 years, there has been an unwavering commitment by APPEA members to understand and protect the environment in which we operate. The Australian petroleum industry is not only the largest economic contributor in our marine environment, we are also the largest non-Government generator of new marine science and research.

Balanced, science-based management of our oceans is critical to securing Australia's future while conserving our unique marine ecosystems and biodiversity. The Australian Government plays an important role in supporting investment through the maintenance of policy frameworks that provide clear direction, consistency and certainty. The Marine Park

¹ Australian Institute of Marine Science – Index of Marine Industry 2016 (aims.gov.au)



Management Plans (the plans) are therefore an important instrument in order to provide certainty to vital marine users as to what activities can and cannot be undertaken in the marine parks and how those activities will be managed.

APPEA is encouraged that the plans recognise the existing stringent and rigorous environmental regulations that are already in place for petroleum activities and seeks to reduce duplication with existing processes. It is important that management plans complement, rather than replace, existing measures for environmental conservation and management.

However, we have also identified some areas of the plans that need further attention. This includes the development of class approvals, further integrating science and monitoring, emergency response and regulatory certainty. Further comments are provided in the Attachment.

I welcome your ongoing engagement, discussion and consideration of our submission. If you wish to discuss any of the matters raised in this letter, please contact Mr Keld Knudsen, APPEA's Policy Director for Exploration, on 07 3231 0511 or at kknudsen@appea.com.au.

Yours sincerely

A handwritten signature in blue ink that reads "M. Roberts". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Malcolm Roberts
Chief Executive

Comments on Draft Marine Management Plans

The Australian Offshore Oil and Gas Industry

The oil and gas industry has been operating internationally in some of the world's most sensitive environments for over a century, ranging from deserts to coral reefs, tropical rainforests and urban environments. Within Australia, the industry has been active since the 1950s, with the first offshore exploration well drilled in the Gippsland Basin in 1964.

In order to safely and sustainably develop resources located in the marine environment, industry undertakes a wide range of exploration and production activities such as seismic surveying, geotechnical investigations, well drilling and support services.

APPEA strongly supports actions in the plan to increase participation by marine industries and other stakeholders through network advisory committees (section 1.8) and other partnerships. For the Parks to be successful, it needs these types of participatory processes in both management, research priorities and decision making. This will increase trust in the process and recognise the full range of interests and objectives of stakeholders.

Part 2.5 Management Programs and Actions in the Network

Marine science program

APPEA welcomes Government commitments to support the need for robust science underpinning the management of our marine estate and the development of an "Australian Marine Parks science strategy".

As already stated, the oil and gas industry is the largest non-government provider of marine research in Australia. We are encouraged by commitments in the plans to investigate multi-disciplinary approaches to marine science priorities and to collaborate with the marine science community - such as the National Environmental Research Partnership (NERP) Marine biodiversity hub;² this reduces duplication and increases efficiency in marine science.

However, the potential benefits of increasing collaboration with other marine users, including the petroleum industry, should be further recognised. Environmental studies generated by the oil and gas industry provide new scientific information and insights into the environments in which we operate. Where these studies are adjacent to or within reserves,

² AIMS: Marine Nation 2025 http://www.aims.gov.au/documents/30301/550211/Marine+Nation+2025_web.pdf/bd99cf13-84ae-4dbd-96ca-f1a330062cdf

they provide vital information to benefit the management of the reserves. These studies are also used to underpin the industry's robust environmental planning process.

The Australian oil and gas industry directly funds a substantial scientific research program to better understand and demonstrate a commitment to the Australian environment. Valued at millions of dollars each year, most of this work is undertaken with specialist academic researchers. The research contributes substantially to the quantum of environmental scientific data available to Australia. APPEA looks forward to the further development of collaborative government / researcher / industry science partnerships.

National security and emergency response

Section 4.2.11 (and 4.2.12 Northwest) sets out the rules for defence, border protection, law enforcement and emergency response activities in the Network. APPEA supports that there should be no restrictions for these activities.

However, further consideration should be given to non-government marine users that may also respond in a security or emergency situation, particularly where industry is directed by national security agencies. Offshore petroleum operators develop detailed security plans and security assessments, and work closely with the Australian Government in relation to security and emergency response. There are examples of where industry and government have worked together in this area. The potential for confusion around approval arrangements in an emergency should be removed. Broad approvals should be given to ensure that Director of National Parks approval is not required for non-government persons or organisation's participating in security or emergency response operations.

4.3.1 Decision-making

The draft plans state that decisions about activities will be consistent with: *"the objectives of this plan, objectives of the zone or zones in which the activity will be or is being conducted, and the applicable reserve management principles (Schedule 8 of the EPBC Regulations r. 10.03H)."*

Schedule 8 of the EPBC Regulations establishes the Australian IUCN reserve management principles, including the principles of zoning and allowable activities under IUCN Categories. While APPEA recognises that the Plans are legislative instruments in their own right, they will be linked through this provision to the regulations. APPEA believes that it is important that should IUCN principles be changed in the future, these changes should not impact on the certainty that is provided by the Plans in allowing activities in certain zones. Elevating the IUCN zoning principles into the Plans would assist in this area.

Chapter 2 – Management and Prescriptions

Part 3. Zoning

Since the beginning of the marine reserve process, APPEA and its members have worked cooperatively with the Australian Government and other marine stakeholders to provide input into the development of a marine reserve network that protects conservation values, while giving equal consideration to social and economic factors and the sustainable development of vital petroleum resources. Importantly, there has been ongoing bilateral support for the principle of designing a network that *provides environmental protection while reducing the social and economic impacts*.

Reliable and efficient access to Australia's offshore areas for petroleum exploration and production is essential to both Australia's future economic prosperity and to its energy security.

The industry has engaged constructively and productively with all stakeholders to consider the location and zoning of a national representative system of marine protected areas that both protects marine biodiversity will providing certainty for vital marine industries. There are areas of the marine park network that will prevent future exploration, appraisal and development activities. APPEA has engaged extensively for many years as a key stakeholder during the design of the marine park network, the zoning and its subsequent review. As such, we will not be providing comment on the areas of individual zoning within the park network. Ongoing uncertainty about zoning and constant flux in relation to zoning is an impediment to industry confidence and long term investment.

It is in this context that APPEA stresses that any additional changes to the zoning through this penultimate stage of the marine park management plans must only be done so with **full** consultation with industry stakeholders. This should be a mandatory requirement in areas where petroleum operations are occurring or areas with good petroleum prospectivity.

Unintended Operational Constraints for Activities Adjacent to Marine Sanctuaries

Many areas of strict marine park zoning have now been placed directly adjacent to existing petroleum titles. APPEA is concerned that this will result in additional constraints on operations. This can have the potential to erode the value of exploration titles and potentially remove the rights granted to the operator by the Government.

For instance, where a marine park occurs adjacent to a petroleum permit, the titleholder must not be restricted from exploring the full extent of their title. In some cases, explorers will be required to travel outside of their permit in order to fully assess its potential. Seismic vessels for instance require large turning areas in order to undertake 'full fold' marine studies.

Management arrangements outlined in the management plan must only extend to activities within the reserve estate. APPEA does not support buffer zones (perceived or real) in the management of marine reserves.

Part 4.2.9 Managing Activities (Mining)

APPEA welcomes provision in the Plans (section 4.2.9 or or 4.2.8 in the North Plan) to rely on existing endorsed approval processes for activities where possible. This recognises that the Australian offshore oil and gas industry is already subject to stringent and rigorous environmental regulation. This pragmatic approach will avoid duplication and unnecessary excessive regulation without jeopardising environmental protection. In summary these arrangements establish that petroleum activities (in Special Purpose or Multiple-Use Zones) can be approved:

- As a controlled action under Part 9 of the EPBC Act, in accordance with conditions of that approval and a class approval; or
- Approved by the endorsed NOPSEMA assessment program which takes account of impacts and risks to marine park values in a manner that satisfies the Director; or
- Are subject of a decision under Part 7 of the EPBC Act (referral) and are not a controlled action if taken in a particular manner, may be conducted in that manner and in accordance with the conditions of a class approval.

However, there are likely to be situations where essential low-risk activities fall between the above arrangements, as they are not covered by NOPSEMA as a petroleum activity, nor do they require an assessment under Part 7 (referral), Part 8 (assessment) or Part 9 (approval) of the EPBC Act. Broad class approvals should be used to ensure that activities that are intended to continue in the marine park zone are not unduly restricted.

Relevant person under NOPSEMA

The Plans establish that the Director of National Parks is also a “relevant person” for the purposes of the OPGGS Act Environment Regulations and must be consulted with by title holders in the preparation of an Environment plan for any activities proposed to occur inside, or outside a park that may impact on marine park values.

While APPEA does not object in-principle to this requirement, we are concerned that it is duplicative to the assessment undertaken by NOPSEMA, who is authorised by the Environment Minister through the Strategic Assessment and by the Director of National Parks through this plan. NOPSEMA is required to take into account marine parks in their assessment of petroleum activities. APPEA recommends that the Director of National Parks should provide guidance to titleholders via NOPSEMA as to the expectations of information and the process for providing this information.

In addition, this consultation process must not be used as a way for ‘suggesting’ conditions or requirements on the operator that become a form of quasi-regulation. NOPSEMA must be allowed to undertake it’s assessment on behalf of the Australian Government.

Pipelines (4.2.9.6)

APPEA strongly supports provisions in the plans that pipelines are allowable if the Director is satisfied that alternative routes are not feasible or practicable (4.2.9.6 or 4.2.8.6 in the North Plan). This provision recognises that a deviated pipeline may result in additional risk and increased engineering difficulty. APPEA agrees that this must involve a full assessment on a case-by-case basis.

Class Approvals (4.4.2)

Section 4.4.2 of the plans establish the process for issuing class approvals for activities - in line with section 146B of the EPBC Act. Class approvals have previously been established for petroleum activities in the South-east marine reserve network since 28 June 2013.

Conditions on class approvals.

APPEA is concerned that extra conditions that may be placed on class approvals will result in regulatory creep and represent an unnecessary regulatory burden on operators. Potential conditions, as outlined in section 4.4.2.2, vary from regulating types of equipment, to reporting or auditing requirements. To reduce the risk of unnecessary burden, conditions (if required) must be developed in close consultation with NOPSEMA, the National Offshore Petroleum Titles Administrator (NOTPA) and the industry to ensure that the conditions are required and burden is minimised.

Approvals should be developed in accordance with the principles of good practice regulation³ and additional conditions should only be required where a need has been demonstrated. For instance, significant reporting of industry activity is already required under both NOSPEMA and NOPTA, additional reporting conditions on a class approval would be unnecessarily duplicative.

³The Australian Government Guide to Regulation (2014) <https://www.pmc.gov.au/resource-centre/regulation/australian-government-guide-regulation>