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Ms Jenny Hardy  
Migration Maritime Taskforce  
Department of Immigration & Citizenship  
PO Box 25  
BELCONNEN ACT 2616  
[migration.maritime.taskforce@immi.gov.au](mailto:migration.maritime.taskforce@immi.gov.au)

**HEAD OFFICE**  
Level 10  
60 Marcus Clarke St  
Canberra ACT 2601  
GPO Box 2201  
Canberra ACT 2601  
T +61 2 6247 0960  
F +61 2 6247 0548  
E [appea@appea.com.au](mailto:appea@appea.com.au)  
ABN 44 000 292 713

Dear Ms Hardy

### **Review of the application of the Migration Act to offshore resource workers**

Thank you for the opportunity to meet and participate in stakeholder consultations with representatives of your Taskforce, and to provide written feedback on the review of the application of the Migration Act to offshore resource workers. We also appreciate the extension of the timeline for our submission to allow us to better understand the details of this complex issue and to more extensively consult with our members.

**BRISBANE OFFICE**  
Level 36  
32 Turbot St  
Brisbane QLD 4000  
T +61 7 3231 0500  
E [brisbane@appea.com.au](mailto:brisbane@appea.com.au)

APPEA is the peak national body representing Australia's upstream oil and gas exploration and production industry, with more than 90 full member companies, all of which are oil and gas explorers and producers active in Australia. Our member companies account for an estimated 98 per cent of the nation's petroleum production. APPEA also represents more than 230 associate member companies that provide a wide range of goods and services to the upstream oil and gas industry, including maritime, drilling and pipe laying services.

**PERTH OFFICE**  
Level 1  
190 St Georges Tce  
Perth WA 6000  
PO Box 7039  
Cloisters Square  
WA 6850  
T +61 8 9321 9775  
F +61 8 9321 9778  
E [perth@appea.com.au](mailto:perth@appea.com.au)

The Australian oil and gas industry's production profile directly and indirectly represents around two percent of current gross domestic product (GDP), with value added of approximately \$28.3 billion in 2011. New growth, and the combined exploration and development effort required, is predicted to lift this annual value added contribution to approximately \$66 billion in 2020 and \$61 billion in 2025.

**SYDNEY OFFICE**  
Level 8  
The Christie Centre  
3 Spring St  
Sydney NSW 2000  
T +61 2 8241 1900  
E [sydney@appea.com.au](mailto:sydney@appea.com.au)

Over the coming years substantial additions to production capacity are set to make Australia the world's second largest exporter of liquefied natural gas (LNG) by 2020. Of the 13 gas liquefaction plants under construction or firmly committed around the world, seven are in Australia. Separately, these represent some of the biggest projects ever undertaken in Australia; collectively, they account for around 35.4% of all business investment.

The industry is truly global in nature and must compete for a limited pool of international investment capital. Oil and gas funding lost from the domestic oil and gas industry will not be spent in other parts of the Australian economy, it will be redirected to our overseas competitors. The continued rate of development of Australia's gas resources cannot be taken for granted. While the industry has committed to the development of a number of large scale projects based in the offshore marine jurisdiction over the last decade, the new generation of investments

(and extensions to existing and committed projects) will be heavily dependent on improving Australia's productivity, labour market flexibility and removing excessive levels of government red tape. Even small delays can have significant costs to industry and in turn the Australian economy

APPEA understands that there is considerable pressure on the Federal Government to close what is in our view unfairly seen as a 'loophole' in the legislation, but is of the view that a regulatory solution is unnecessary. This is because the Allseas decision (2012) effectively clarified the situation viz-a-viz- workers in offshore maritime zones, and most importantly it has provided the legislative certainty necessary to promote continuing industry investment and operations offshore.

Given the complex legal and jurisdictional landscape, and the potential economic impact at stake, we strongly urge further consultation and a full and thorough exploration of the regulatory impact of any proposed changes to the legislation on the oil and gas and associated industries. In the timeframe allocated to this review APPEA has been unable to source and collate detail on all activities being undertaken offshore that may be impacted by any regulatory solution. However, if the Taskforce is required to provide the Australian Government with a solution, APPEA requests that the Taskforce consider and address the following points:

- It is in Australia's interests to ensure that the offshore hydrocarbons sector is an attractive place for global investment. Although it is a significant driver of the national economy, the sector is already subject to considerable regulatory and economic burdens. Unnecessary targeting of the sector will affect the viability of future projects worth hundreds of millions of dollars and impact the productivity of existing projects.
- The oil and gas industry is both highly skilled and international in nature. As is the case with many other occupations operating in the sector, employees working on pipe laying vessels have specialised skills which are historically accessed globally, wherever the pipe laying vessel is contracted to operate. There are existing protections in place for these workers. Workplaces and working conditions are regulated by international law and the flag States. Importantly, all of these factors are directly relevant to management of risk, including workplace health and safety.
- APPEA and the upstream offshore oil and gas industry fully support appropriate and reasonable access to Australian expertise, and we are focused on developing skilled and sustainable jobs for Australians.
- Any legislative change targeting people working on working on foreign-flagged, foreign-owned vessels may create unintended consequences for a much broader set of members, including drill ships, FPSOs, tugs, stand-by vessels and accommodation vessels. Many of these oil and gas activities are regulated by the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) under the Offshore Petroleum and Greenhouse Gas Storage Act (OPGGSA) and Regulations. Industry's topmost priority and commitment is safety and the overriding policy objective needs to be to protect the offshore legislative regime for safety and environment applying to the Australian oil and gas sector through the OPGGS.

- Some matters need not and cannot be regulated by Australian legislation. Under international law Australia has jurisdiction over its citizens or ships wherever they are located, but the Federal Government must recognise that in other circumstances Australia's legislative reach cannot override, for example, the accepted jurisdiction of another country.
- Any solution must be efficient, effective and meet the operating realities faced by vessels operating in the oil and gas sector offshore.
- There is a need to separate out vessels and crews working for longer timeframes periods from those who come in for short periods to undertake short and highly specialized work.
- There is also a need to maintain an absolute distinction between what might be industrial relations issues versus safety, and to avoid situations where Australian crews are brought onto vessels which already have in place highly skilled crew who are familiar and experienced with vessel and equipment.

Thank you again for the opportunity to provide our industry's perspective on the review to the Taskforce. Please don't hesitate to contact me if we can be of any further assistance.

Yours sincerely



Miranda Taylor

**DIRECTOR – ENVIRONMENT, SAFETY & PRODUCTIVITY**