



17 February 2023

Submission: Cost recovery for environmental assessments under the *Environment Protection and Biodiversity Conservation Act 1999*

The Australian Pipelines and Gas Association (APGA) represents the owners, operators, designers, constructors and service providers of Australia's pipeline infrastructure, connecting natural and renewable gas production to demand centres in cities and other locations across Australia. Offering a wide range of services to gas users, retailers and producers, APGA members ensure the safe and reliable delivery of 28 per cent of the end-use energy consumed in Australia and are at the forefront of Australia's renewable gas industry, helping achieve net-zero as quickly and affordably as possible.

APGA welcomes the opportunity to contribute to the consultation on a proposed cost recovery framework for environmental assessments under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Streamlining Environmental Assessment processes under the new Federal Environmental Protection Authority (EPA) is a worthwhile goal, to be supported by an appropriate cost recovery framework. In considering this framework, APGA has some concerns about the scale of cost recovery and features of the design of the framework. These concerns are detailed below.

APGA supports a net zero emission future for Australia by 2050¹. Renewable gases represent a real, technically viable approach to lowest-cost energy decarbonisation in Australia. As set out in *Gas Vision 2050*², APGA sees renewable gases such as hydrogen and biomethane playing a critical role in decarbonising gas use for both wholesale and retail customers. APGA is the largest industry contributor to the Future Fuels CRC³, which has over 80 research projects dedicated to leveraging the value of Australia's gas infrastructure to deliver decarbonised energy to homes, businesses, and industry throughout Australia.

Streamlining of processes under an EPA

We believe that the establishment of an EPA is an opportunity to streamline environmental regulation and particularly Environmental Assessments under the EPBC Act.

Revision of the EPBC Act to develop and implement environmental standards as regulations, alongside a mandate to actively enforce and regulate compliance, will help level the playing field and ensure that all regulated proponents are complying with their regulatory obligations. We also see that the establishment of an EPA is an opportunity to streamline

¹ APGA, *Climate Statement*, available at: <https://www.apga.org.au/apga-climate-statement>

² APGA, 2020, *Gas Vision 2050*, https://www.apga.org.au/sites/default/files/uploaded-content/website-content/gasinnovation_04.pdf

³ Future Fuels CRC: <https://www.futurefuelscrc.com/>

those regulations at the Federal level. APGA looks forward to engaging in the future consultation on the development of national environmental standards.

Inappropriate share of cost burden in the cost recovery framework

In creating the new EPA, the Federal Government intends that its functions, including Environmental Assessment processes, will be “partially” funded through a cost recovery model, with developers paying an “equitable” share of the cost of services provided by the Department.

It is fair and equitable that developers shoulder some of the burden of the cost associated with assessing their applications. However, APGA is troubled at what appears to be a philosophy of almost 100% cost recovery when it comes to Environmental Assessments under the EPBC Act. The proposed cost base in the consultation document appears, in our view, go too far, with the base so broad as to include the costs associated with policy and advice development. APGA would consider policy and advice development to be in the core business of the Department. It also includes the cost of human resourcing; the cost of IT infrastructure and services including email architecture; potentially even the cost of physical office space leases (“property”).

A certain level of cost recovery is assumed and appropriate in the delivery of fee-for-services in government regulatory activities. But we believe that the proposed cost recovery framework effectively subsidises the ordinary operations of the Department in undertaking its core functions – which includes processing Environmental Assessments. This does not seem to be in the spirit of the Australian Government Charging Framework and Cost Recovery Guidelines with which the Department seeks to abide.

Increases in fees

The cost recovery proposal outlines many additional charge points in the Environmental Assessment process. APGA believes that increases in fees, and additional fees, should be linked to other reform mechanisms that deliver commensurate improvements to assessment processes. The framework does not identify any such improvements in the cost recovery matrix other than in an additional accelerated process stream. Inaccurate assessment timeframes, delays and uncertainties can have a deleterious effect on project viability, and need to be considered.

A tiered fee approach for the major assessment stages should be considered to enable the Environmental Assessment process to be as simple and transparent as possible to proponents, with an estimate of future assessment fees. This approach would be more equitable, and permit proponents to have a clearer forecasting of potential fees associated with their project, compared to a flat fee.

As we understand from Departmental consultations to date, the quantum of these new fees and additional charges would result in a 7-10 fold increase in fees to proponents. It is likely that these increases in costs will either be passed to the ultimate consumer, or affect the viability of some economically-important energy infrastructure projects. APGA anticipates the opportunity to provide comment on the quantum of charges in future consultation processes.

Accelerated process fee

The consultation document outlines an option for an accelerated process tier. Put simply, project proponents can pay an additional fee to benefit from a greater number of and more senior Departmental staff to assess a project, in combination with shorter timelines. APGA agrees with the concept of this fee, and sees it as an appropriate measure to improve assessment timeframes for high value projects.

It is difficult to comment on this fee, however, in the absence of detail on its quantum. As with other new fees and increases in existing fees, the consultation document does not provide any indication of this.

APGA also would be keen to understand how the Department plans to avoid impacts on the timeliness or quality of decision-making for projects which do not pay the fee, resulting from the diversion of staff to the accelerated projects.

Levies

The consultation document proposes an ongoing levy, “to fund the indirect regulatory activities, that are not attributable to a service provided to a specific proponent, approval holder or third party”. This is arguably the core business of the Department and should be funded from appropriation.

APGA believes that any levies imposed, as well as fees, must be sensitive to the industry and infrastructure of the proponent and project. For instance, when considering annual levies applied over the lifetime of the approval, an underground pipeline is minimally environmentally disruptive during its operational lifetime. It is unclear what a levy to support ongoing compliance would specifically fund, over and above the existing fees and proposed additional cost points.

APGA does not support the introduction of these levies retrospectively. We believe they should only be explored where there is a history of non-compliance with regulations.

To discuss any of the above feedback further, please contact me on +61 422 057 856 or jmccollum@apga.org.au.

Yours Sincerely,



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