

19 February 2010

Indigenous Cultural Heritage Acts Review
Department of Environment and Resource Management
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Brisbane QLD 4001
via email: ichar@derm.qld.gov.au

INDIGENOUS CULTURAL HERITAGE ACTS REVIEW – IMPACT ON LINEAR INFRASTRUCTURE

The Australian Pipeline Industry Association (APIA) welcomes the opportunity to comment on the Key Issues and Draft Recommendations Paper issued by the Department of Environment and Resource Management on its Indigenous Cultural Heritage Acts Review.

APIA strongly supports the self-regulatory approach to cultural heritage management that is current practice. APIA's Code of Environmental Practice outlines procedures companies should undertake on cultural heritage management issues and is widely used by the pipeline industry. It is important that the pipeline industry have well established procedures in relation to cultural heritage management as a pipeline project, often crossing hundreds of kilometers, typically passes through more than one Aboriginal party's land.

APIA is concerned with the draft recommendation in Section 3 that will:

Require cultural heritage agreements and management plans to be made with all or each Aboriginal or Torres Strait Islander parties or party

APIA's concern is focused on what occurs when there are inherent conflicts of interest between Aboriginal or Torres Strait Islander parties, particularly impacting upon long-distance, linear infrastructure construction. There are two main issues that may arise:

1. Multiple parties have a dispute over artifact ownership or management; and
2. Parties engage in a project's cultural heritage management to further strengthen claims to a region, with a particular interest in interfering with other groups with overlapping claims to the region.

Point 2 can lead to circumstances where a project suffers an unfair delay due to existing native title disputes, the resubmission of a claim or a new submission of a native title claim. A potential future claimant or an Aboriginal party that has failed in a claim would have a vested interest in competing with an existing endorsed Aboriginal party in order to claim involvement and traditional connection/custodianship of the land. APIA is aware of occasions where this exact circumstance has arisen, leading to project delays.

Due to the nature of pipeline projects, crossing multiple regions, in the most extreme case this could lead to a single failed party have conflicts with multiple endorsed parties.

APIA's view is that this recommendation is potentially harmful to resource projects in Queensland. The current system works effectively and it is common practice for companies to engage with all willing parties on cultural heritage matters.

APIA considers that project proponents have a vested interest in managing cultural heritage issues appropriately and in consultation with the relevant parties. Proponents should not be forced into dealing with all parties, especially those who have failed in having their claims to a land recognized.

If you would like any further information please contact Steve Davies on (02) 6273 0577 or at sdavies@apia.asn.au.

Yours sincerely

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