

The Honourable Mr Gary Higgins MLA
Chairman
Committee on the Northern Territory's Energy Future
GPO Box 3721
Darwin NT 0801

By email: contef@nt.gov.au

Dear Mr Higgins

Legislative Assembly of the Northern Territory – Committee on the Northern Territory's Energy Future

It has been brought to my attention that on Friday 14 February 2014, ABC Darwin News radio reported a brief story concerning the Inquiry into the Territory's future energy needs.

In particular, it attributed comments to Mr Stedman Ellis from the Australian Petroleum Production and Exploration Association (APPEA), as having said the NT Build Scheme, which provides portable long service leave for Territory construction workers should be abandoned (copy of ABC transcript attached). On the Committee's web page I read, amongst others, the APPEA submission that advocated the Territory Scheme be reviewed and that a shift to a wages based model should occur. This of course is quite different to the comments on the ABC report, assuming that they correctly quoted Mr Ellis. In any case I feel compelled to correct the record on a number of matters concerning NT Build so that the Committee is properly informed in undertaking its important task.

In August 2013 the Minister for Lands Planning and the Environment, as the Minister responsible for the *Construction Industry Long Service Leave and Benefits Act (NT)* appointed me, as the independent Chairperson of NT Build, to conduct a review into the operation of the Scheme and this is referred to in the APPEA submission. To facilitate this review a Discussion Paper was prepared and distributed to various industry stakeholders including APPEA. The review was not an internal process as suggested by APPEA. The distribution of the Discussion Paper was accompanied by an invitation to meet with me and/or to make a written submission on the various issues identified. Disappointingly, APPEA declined to meet me, unlike every other contacted stakeholder, or make any submission to this review.

I have attached a copy of that Discussion Paper for the Committee's information. I believe it represents a succinct summary of the key issues involved with the administration of the NT Scheme, including the specific matter of how such schemes are funded. It also provides a snap shot comparison of portable long service leave scheme arrangements for construction workers in all other states and the ACT.

My report on the review has been provided to the Minister for his consideration and has not yet, to my knowledge, been made public. I therefore feel somewhat constrained as to what I can say at this time but there are a number of general issues on which comment should be made.

The particular comments on NT Build made by APPEA in their submission to your Committee are found in pages 23 and 24 including the following recommendation.

"The NT Government commission an external third party organisation to conduct a full and independent review of the NT Build scheme so as to ensure that it is operating in an efficient and transparent manner. Payments into the scheme should be based on wages paid to NT workers directly engaged in the construction of buildings and production facilities located in the NT."

It seems very strange that APPEA's proposal to conduct an independent external review seems to be entirely conditional on it agreeing with APPEA's position!

During the course of my review I was able to study a review of the Victorian scheme undertaken in 2007 by Access Economics, a firm which presumably would meet APPEA's criterion for being an *"..independent third party such as an accounting firm or economic consultancy.."*. The Victorian scheme uses a wages based levy model and, amongst many other findings, Access Economics found that the project based levy system also used in NSW and Queensland *"..has a range of benefits: it reduces the administrative cost of the scheme, results in greater compliance and more accurate recording of workers' service. It is also relatively more attractive from an economic efficiency perspective, removing an artificial distortion and considerably broadening the revenue base, facilitating revenue collection with a lower levy rate."*

This finding is clearly at odds with the views on economic efficiency expressed in APPEA's submission to the Committee. I am not an economist but I draw these matters to your attention to point out that the issue is not as clear cut as APPEA would have the Committee believe.

APPEA's comments regarding NT Build appear to be in the context that it is a factor in *"..undermining the Territory's competitiveness for investment."* It may therefore interest the Committee to know that the recent huge investments in shale gas and LNG plants in Queensland have been undertaken despite the existence of a portable long service leave scheme very similar to the Territory's – indeed the Territory legislation was based on the Queensland model when it commenced in 2005. The Committee may wish to ask APPEA to explain this apparent contradiction.

The APPEA submission also states that “..the scope of activities subject to the scheme is vaguely defined and is being continually expanded by the Scheme’s administrators.” At its best this statement is an overreach of the facts. The Act contains very significant exemptions relating to the mining and resource development industries and the only example quoted and, the only one known to NT Build, relates to clearing work for a seismic line. This is also quoted in the submission to the Committee by Santos. The Act contains a mechanism for any decision by NT Build to be referred to the Board for reconsideration, an appeal facility that was not used by the developer in this case. Notwithstanding the above comments, it was clear during my interviews with other stakeholders that some updating of the definitions of the exemptions would be desirable and a means to address this is covered in my report to the Minister. The suggestion that the scope of activities covered by the Scheme is being continually expanded is totally rejected by NT Build and not supported by any evidence.

APPEA has also raised the issue of uncertainty for a project’s financial liability to the Scheme where the cost exceeds \$1 billion. On this matter they have a valid point and the issue is covered comprehensively in my review as a consequence of ongoing discussions that NT Build has had with INPEX over the past 2 years.

I also feel that the Committee should be aware of one of the guiding reasons for the Scheme’s introduction in 2005. This related to the recognition that, as the only jurisdiction in Australia that did not have such a scheme, there was a potential disincentive for skilled construction workers to move to the Territory. This is not to say that the Scheme solves all problems with recruitment of the workforce but it is a significant factor for some workers who have served in the industry for some time. This issue is also recognised as important in APPEA’s submission and is a continuing issue for the Territory as larger projects become more common.

Should the Committee or its staff feel they require further information regarding NT Build please do not hesitate to contact the Scheme Registrar, Mr Theo Tsikouris, in the first instance on 8936 4074.

I wish the Committee every success in its important task and look forward to reading its final report.

Yours sincerely



BARRY CHAMBERS
Chairperson, NT Build Board

21 February 2014

