

Please direct all responses/queries

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Lisa Gropp
Commissioner
Productivity Commission

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Dear Ms Gropp

FURTHER SUBMISSION ON THE AUSTRALIAN GOVERNMENT'S RESOURCES SECTOR REGULATION INQUIRY

Woodside Energy Ltd. (Woodside) welcomes the opportunity to provide further input to the Productivity Commission's (Commission) Resources Sector Regulation inquiry. In October 2019, Woodside provided an initial response¹ to the inquiry's terms of reference and we thank the Commission for incorporating some of our views into your draft report. We also note, Woodside recently submitted a paper to the independent review of *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) and some of the views reflected in that document are repeated below.

The disruption caused by the global response to the COVID-19 pandemic has created a once in a generation opportunity to rethink many aspects of the way we do business. In its essence, a shift in the status quo of day-to-day life has been forced upon us. At an industry level, Woodside believes this shift in mindset represents a rare opportunity to deliver considered improvements to regulations in the resources sector that can help to reboot the economy. With many changes already underway, we welcome the resumption of this inquiry and wish the Commission well in delivering its final report to government in November.

About Woodside

Woodside is recognised globally for its capabilities as an integrated upstream supplier of natural gas. We deliver natural gas both domestically and internationally, providing value to customers, partners and shareholders. As Australia's premier Liquefied Natural Gas (LNG) operator, Woodside produces around six percent of the world's LNG supply, with a permanent staff of around 3,800 employees². Our natural gas is low in emissions, in comparison to other fossil fuels, and is a viable energy alternative for both developed and developing economies around the world. We are also building a business specialising in the development and trading of carbon offsets, as well as working to accelerate new energy technologies such as hydrogen.

Local regional and metropolitan communities also benefit from our activities through employment, taxes and royalties and a significant social investment program. We are proud of our exemplary track record on health, safety and environment and have demonstrated our capacity to deliver world-class mega-projects at pace in challenging environments.

Despite the current challenges in our sector and the broader economy, Woodside continues to work hard to deliver our vision for the "Burrup Hub" in Western Australia's Pilbara region. The vision involves the proposed development of approximately 40 trillion cubic feet of gross dry gas resources principally from the Scarborough and Browse fields, through our established LNG facilities at Pluto LNG and the North West Shelf (NWS) Project Karratha Gas Plant (KGP). If realised, the Burrup Hub vision could deliver LNG to global markets and domestic gas to Western Australia for decades to come. Our vision has the potential to improve energy security in Australia and deliver thousands of regional jobs, at an average of 4,000 full-time equivalent jobs per annum over a 40-year timeframe. In addition, total direct tax and royalty payments are estimated by ACIL Allen to add over \$82 billion to state and federal government revenue³.

¹ https://www.pc.gov.au/data/assets/pdf_file/0003/247170/sub018-resources.pdf

² Total number of employees including permanent, fixed term and part-time. Does not include secondees or contractors.

³ <https://www.acilallen.com.au/uploads/files/page/31/BurrupHubDevelopmentSummaryBrochure-1562111185.pdf>

Responding to the draft report

The Commission's draft report provides useful analysis on regulatory constraints holding back the resource sector in Australia. However, many of the report's findings and recommendations are not new, having been the subject of multiple state and federal reviews into the resource sector over the past decade, including at least two by this Commission. The consultations on the findings and recommendations of the Commission's previous reports were far reaching, so there is no reason for government to delay the implementation the Commission's previous and current recommendations. We recommend that the government conclude this work and implement the long-overdue recommendations immediately. Indeed, if Australia is to remain globally competitive in the resources sector, real action by government to reduce regulatory burden is required now. Woodside encourages the government to work expeditiously to deliver the full potential of this inquiry, and those of the past, for the benefit of all Australians.

Responding to draft findings, leading practices and recommendations

Base decisions on scientific evidence - Draft Recommendation 4.1 p.34

Basing decisions on credible and defensible science is core to everything we do at Woodside. We rely on the best scientific knowledge to support our business decisions, impact assessments, regulatory approvals, as well as supporting our engagements with the community. As identified in the draft report, governments should weigh up costs and benefits of projects based on scientific evidence, rather than imposing moratoria or bans. Woodside recommends the strengthening of evidence-based decision making across state and federal jurisdictions in resources sector regulation. A modern, streamlined and effective approvals process should protect the environment while facilitating development through clearly articulated and consistently applied standards based on science.

The cost of delays – Draft Finding 6.1 p.38

Woodside agrees with the Commission's finding that unnecessary delays in project commencements can be costly for proponents, and typically dwarf other regulatory costs. In this respect, we support the Commission's 2013 analysis, which estimated that the indicative cost of a one-year delay to a major offshore liquefied natural gas project is in the order of \$500 million to \$2 billion. The Commission concluded the central estimate of \$1.1 billion represented a reduction in the net present value of the investment by about 9 percent⁴. With the average time between project referral and approval for resources projects under the EPBC Act being nearly three years⁵, Woodside recommends state and federal governments streamline overlapping and duplicative approvals processes to reduce the potential for unnecessary project commencements delays. Failure to act will increase the likelihood that marginal projects in Australia remain undeveloped (see also Draft Finding 6.8 below).

Risk-based approaches instead of broad-based approaches – Draft Finding 6.2 p.38

Woodside agrees with the Commission's assessment that environmental impact assessments (EIAs) can become unduly broad in scope, costly and of questionable value to decision makers and the community. Failure to adequately scope an EIA can lead to a situation where excessive resources are expended on minor impacts, leading to voluminous environmental impacts statements (EISs) that cover an unnecessarily wide range of impacts in far too much depth. Woodside believes the assessment process could be improved by implementing a less conservative risk-based approach to regulation. This would help to ensure that regulatory effort is directed to areas where it would have most impact and where the costs of regulation are commensurate with the risks being managed.

A less conservative risk-based approach to regulation has been recommended to the Commission in the past, including by the Business Council of Australia in its Commission submission on Major Project Development in 2013. Woodside also recommends greater flexibility in the form and content of EIA documentation, particularly for low risks/impacts and revisions to existing approvals.

Remove unnecessary duplication – Draft Finding 6.8 p.39

Regulatory coordination has improved over the past decade but more can and should be done to improve our regulatory processes. While the 2009 review of the EPBC Act streamlined regulatory processes with respect to offshore petroleum activities, this system remains prone to complexity, duplication and delay (see Woodside's 2020 submission to the statutory review of EPBC Act). To highlight this point, a recent Woodside

⁴ <https://www.pc.gov.au/inquiries/completed/major-projects/report>

⁵ <https://www.pc.gov.au/inquiries/completed/major-projects/report>

case study involved the approval of the proposed Scarborough Trunkline, which proposes to connect the Scarborough gas fields to the existing onshore Pluto LNG facility. For the greater portion of this proposed pipeline, the corridor is in federal waters and has been assessed by a single regulator, i.e. the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA), under both the Offshore Petroleum and Greenhouse Gas Storage Act (OPGGSA) and the endorsed program under the EPBC Act. However, at the border with Western Australian (WA) waters (three nautical miles from shore) NOPSEMA's jurisdiction ends and the assessment became the responsibility of WA and the Department of Agriculture, Water and the Environment (DAWE) for matters of National Environmental Significance (mNES). In this case, three distinct regulators assessed the same pipeline, two being in state jurisdiction.

There is no benefit in duplicated effort, such as the DAWE and Environmental Protection Authority of WA processes in state jurisdiction. In fact, having multiple regulators assessing the same proposal leads to inefficiencies and information loss during the transfer of responsibilities.

Where multiple parallel assessment and reporting requirements exist for large projects, Woodside recommends:

- assessments be coordinated through a single process to provide a clearer pathway for both project proponents and regulators;
- developing a national online assessment process and improving the availability of biodiversity and other environmental data;
- amending the EPBC Act, in line with the Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014 (Cth), to enable negotiation of bilateral approval agreements; and
- rolling out of environmental approval bilateral agreements between state and the federal governments nationally.

Limitations of NOPSEMA – Draft Leading Practice 11.2 p.315

The design of the federal system comprising an independent statutory body (NOPSEMA) has delivered several benefits, including some streamlining and the development of industry specific expertise within a specialist regulator. Furthermore, the ability of NOPSEMA, as the sole environmental assessor, to make independent decisions on Environment Plans (EPs) covering those matters protected under Part 3 of the EPBC Act, has been welcomed by industry. However, for an offshore petroleum project assessed under NOPSEMA's endorsed program, an Offshore Project Proposal (OPP) is required to be accepted before associated EPs can be submitted. An OPP is broadly analogous to an Environmental Impact Statement (EIS), however a key difference is that NOPSEMA does not have the same ability to take into account social and economic considerations in their decision making, in the same way that the relevant minister does under the EPBC Act. Woodside supports NOPSEMA's remit continuing to be limited to environmental matters, however consideration should be given to how social and economic considerations can be factored into OPP decisions without reverting to duplication of assessment effort.

Establishing timeframes for decisions - Leading Practice 6.2 p.40

Woodside agrees timeframes, statutory or otherwise, provide proponents with vital information that supports project planning. However, more consideration should be given to defining the full range of timeframes in the approvals process. This could include publishing all decision-making timeframes and reporting performance against them. For example, the determination of whether a referral is to be formally assessed under the EPBC Act must occur within 20 business days from receipt of the referral. However, where 'stop the clock' provisions are used, this timeframe can take significantly longer. In the case of the Scarborough Nearshore (state waters) proposal mentioned above the 'clock was stopped' on the 20-day period and the decision ultimately took 164 days. The cost in hours worked in getting to the first phase determination of 'not controlled if undertaken in a particular manner' was significant.

Woodside recommends that timeframes for setting the level of assessment and all subsequent stages of assessment be established, standardised, published and made binding so that proponents have a higher degree of certainty prior to submission. The current approach of agreeing case-by-case service charters should only be used by exception. Finally, more consideration could be given to cost-recovery, to ensure resources are available to meet the timeframes.

Uncertain and inconsistent climate change and energy policies – Draft Finding 8.2 p.48

Woodside agrees with the finding that uncertainty and inconsistencies on climate change and energy policies across jurisdictions risk impeding resources sector investment. For example, under the EPBC Act there is a lack of clarity on whether the regulatory assessment and conditioning process for primary environmental approvals should include the impacts of downstream consumption of products from the project under

assessment. While this has related primarily to greenhouse gas emissions associated with Australian energy exports, the principle could apply to any downstream emission. Arguably, the principle that emissions are the responsibility of the entity that incurs them, in the jurisdiction where they are incurred, is important and informs the structure of national greenhouse gas inventory reporting under the United Nations Framework Convention on Climate Change (UNFCCC). Proponents in Australia would benefit, and the risk of approvals being challenged would be reduced, if the government was clear on its intentions within the EPBC Act in this regard.

Life of greenfields project enterprise agreements – Draft Recommendation 8.1 p.49

Woodside agrees with the Commission's recommendation that s.186(5) of the *Fair Work Act 2009* (Cth) be amended to allow an enterprise bargaining agreement (EBA) to specify a nominal expiry date that matches the life of greenfields project⁶. The oil and gas industry in Australia relies heavily on its reputation as a safe and stable investment destination and threats, or actual occurrences of industrial action, present significant risks to project costs and completion timeframes. These amendments are important given planned resources and infrastructure developments, including the proposed Burrup Hub projects, involve lengthy construction periods in excess of four years. Additionally, the proposed project life agreements provide social and economic benefits to communities. By providing wage certainty for the full duration of a project, the willingness of workers to make long-term financial commitments to communities will grow, particularly in the regions.

Thank you for the opportunity to respond to the Commission's draft report. Woodside would be pleased to provide further background on request.

Yours, sincerely

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⁶ <http://www.ag.gov.au/Consultations/Documents/industrial-relations-consultation-greenfields-agreements/submissions/woodside-energy-limited.PDF>