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Dear Commissioner Weickhardt

RESPONSE TO ISSUES PAPER

Thank you for the opportunity to respond to the Productivity Commission's Issues Paper on Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector published in July 2008.

In light of the detailed response being provided by APPEA (to which Woodside is contributing) we have chosen in this submission simply to highlight some specific areas of interest and make general comment on issues we would encourage the Commission to focus their attention on for the Draft paper. In addition to this submission, we look forward to hosting representatives of the Productivity Commission during forthcoming visits to the Karratha Gas Plant and the Pluto LNG project at the Burrup LNG Park.

Background

Woodside is Australia's leading independent oil and gas company and a major supplier of energy to Asia. We operate Australia's two biggest resource projects, the North West Shelf Venture in Western Australia ("**NWSV**") and the adjacent Pluto liquefied natural gas project, currently under construction ("**Pluto Project**"). Through the NWSV we supply about 65 per cent of Western Australia's domestic gas (industrial and residential) needs. Of the five existing LNG trains in Australia, Woodside currently operates four (for the NWSV). Woodside will also be the operator of the nearly completed fifth train for the NWSV as well as the Pluto Project LNG train.

The Pluto Project currently has about 220 approvals mapped for project completion and while these approvals are on-track it has been a resource-intensive process to progress them through agencies. Additional resources have been required to be allocated to the project to track commitments and conditions arising from approvals.

Other proposed projects being assessed by Woodside in Australia are the Browse LNG Development, the Sunrise LNG Development and additional trains at the Pluto site. The Company's vision is to be a world-class LNG player and its focus is on achieving this primarily through development of Australian gas assets.

In 2007 Woodside provided the then Department of Industry, Tourism and Resources a detailed submission for the Commonwealth Government's Consolidated Review. The Review report is called *Report on the Consolidation of Regulations under the Petroleum (Submerged Lands) Act 1967* and is available from the Department of Resources, Energy and Tourism ("**DRET**"). We would encourage you to review the Report as part of your current assessment.

Environment

While environmental approvals are often the focus of concern by industry because of their potential for duplication, schedule risk and complexity, it is our experience that these can often be managed, albeit with an application of resource effort which would not be viable for smaller companies. We are aware that APPEA will address the commonly held industry concerns in this area, so our comments below are additional matters provided for the interest of the Commission.

- Environmental Assessors Forum

We acknowledge the work that the Environmental Assessors Forum (“EAF”) has undertaken.

Under strong leadership from DRET the EAF has focussed on standardisation across the State jurisdictions. This has been valuable for companies that operate across multiple States. In particular we have seen a movement to a single approach in assessing environmental plans for activities in the offshore environment. The discussion paper on decommissioning was a significant work, but within Woodside it is generally felt that the focus was heavily toward the environmental issues to the exclusion of technical and commercial requirements. In any event the process has been slow in moving forward with little progress being made toward an agreed guideline.

The willingness of the EAF to interface as a group with our industry illustrates a customer focus and has allowed frank discussion between regulators and industry. The involvement of the Department for Environment, Water, Heritage and the Arts (“DEWHA”) in the forum is important as it allows the department to see how their delegated authority is implemented at a State regulator level.

- Duplicate reports

We have received a number of requests from DEWHA in recent times for copies of reports submitted to the Western Australian Department of Industry and Resources (“DoIR”) in their role as Designated Authority. Under that system we are not required to submit reports to both agencies and would normally only submit to DEWHA if there was a matter of national environmental significance. Whilst we acknowledge the role that DEWHA has, informal requests of separate reporting risks duplication of regulatory process or undermining its streamlining intent and adds to our reporting burden.

- WA EPA Review

The review of environmental approvals processes by the Western Australian Environmental Protection Authority (“EPA”) has picked up on a number of initiatives to increase certainty, reduce timelines, and simplify the approvals process. We support the work they are undertaking and believe it will be of real benefit to industry in WA. We would recommend the Productivity Commission speak to the EPA to gain an understanding of the changes being implemented. One underlying issue impacting on approvals processing in all environmental agencies is staff recruitment and retention. The availability of qualified and experienced decision makers significantly impacts a regulator’s efficiency during peak workloads.

Emissions Trading Scheme

The details around the design and implementation of a national emissions trading scheme (“ETS”) are not clear. However, what is clear is that the scheme has real potential to adversely impact investment and to impose further reporting and compliance costs on industry. Care needs to be taken to ensure an ETS framework is implemented in a way which does not detract from investment in trade exposed industries or create a regulatory burden which impacts on the competitiveness of Australia’s LNG industry.

Consideration should be given to the extent and timing of the ETS scheme to reduce the potential for it to have unintended consequences on economic growth. We would also draw the Productivity Commission's attention to the Wilkins Review, a strategic review of Australia's climate change policies between jurisdictions. In our view, the introduction of a national scheme should trigger the removal of specific approvals conditions imposed by the States in recent years. In addition, we are keen to see one uniform national reporting requirement which will replace the State by State development that has occurred during the last five years.

Native Title & Heritage

Currently a duplication of process exists between the various State and Territorial Aboriginal heritage legislation and the *Aboriginal and Torres Strait Island Heritage Protection Act 1984* ("ATSIHPA").

In particular, applications under section 9 and section 10 of the ATSIHPA are frequently made by Aboriginal groups even when companies have complied with all relevant State heritage laws. The Commonwealth Minister is not required to take into consideration existing approvals when making a decision on section 9 and section 10 matters. This issue, and others, were explored by Elizabeth Evatt AC in her 1996 *Review of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984*, commonly referred to as the Evatt Review. We would like to draw the attention of the Productivity Commission to this review and its recommendations.

In July 2008 the Commonwealth announced that it would recognise that non-exclusive native title rights can exist in territorial waters up to 12 nautical miles from the Australian shoreline. The full implications of this change for government policy are not known at this stage but we would ask that the Productivity Commission inquire into this to ensure it does not result in any additional regulatory burden for oil and gas companies working within the 12 nautical mile limit.

National Offshore Petroleum Safety Authority (NOPSA)

Woodside has recently provided responses to the Government's independent review of NOPSA operations that deal with a number of the health and safety issues raised in the Commission's Issues Paper. We attach our paper for your interest.

Joint Authority model of administration

The joint authority model of administration of petroleum legislation in Commonwealth offshore areas is generally a very workable model. It is of great benefit having a representative of the joint authority in the State capitals for ready access to discuss any technical and administrative issues. As approvals are required from State authorities where any onshore infrastructure and pipelines are required to process or ship petroleum produced from offshore Commonwealth areas, in our view it is logical that the State authority is involved in the decision making and approvals within adjacent offshore areas.

Inconsistency of regulation

While there is often the intention that State and Commonwealth legislation mirror each other or are intended to be consistent, in practice this is not always achieved. Following are some specific examples of this.

- Greenhouse gas storage legislation across Commonwealth and State jurisdictions

It appears that the various jurisdictions are legislating for greenhouse gas storage (geosequestration or carbon capture and storage) via differing mechanisms. South Australia has made minor amendments to their onshore petroleum legislation; Queensland and Victoria have stated they will most likely draft standalone legislation; and Western Australia has drafted minor amendments to the definition of petroleum but they have not yet been enacted. All of these mechanisms are at odds with the Commonwealth proposed amendments to the *Offshore Petroleum Act 2006* ("OPA") via the introduction of a completely new set of greenhouse gas titles.

- Petroleum legislation

Although the aim is for State offshore petroleum legislation to "mirror" the Commonwealth offshore legislation for consistency, in reality this doesn't always occur. This can be due to differing priorities and parliamentary schedules. State legislation is often not entirely "in-synch" with the Commonwealth offshore legislation. For example, the restriction on drilling within 300m of a title boundary was revoked from the Commonwealth legislation in 2000, but is still in force in the WA offshore legislation.

Graticulation Provisions of Offshore Petroleum Permits, Leases and Licences under the OPA

There is currently a proposal to change the unit of area for administration of graticular blocks under which petroleum permits, leases and licences are administered under the OPA from a unit of 5 minutes of latitude or longitude to 1 minute. This will be cumbersome since three types of permits will have to be administered under a changed system:

1. The old permits which have special grandfathering provisions on relinquishment rules such as WA-1-P and WA-33-P.
2. The pre-existing permits, leases and licences which will continue to be administered under the existing 5 minute rules.
3. The new permits, leases and licences which will be administered under a new set of rules geared to the one minute system.

We believe the new rules for the 1-minute blocks will be considerably more complicated than the existing rules due to the increased potential for creation of small units of relinquished acreage, which government will presumably want to avoid. The proposed change is likely to lead to a vastly increased burden of documentation. For example:

- Fields which are neighbouring, but not close enough to have contiguous one minute blocks, will require dedicated field development plans in support of individual production licences, whereas in the past they may have been covered under a single field development plan (for example, a situation akin to the Stybarrow/Eskdale development offshore Western Australia).
- Interconnecting field pipelines will need to have pipeline licences whereas now the pipelines are wholly contained within the production licence so no separate pipeline licence is required (an example of this is also Stybarrow and Eskdale).
- There will be increased incidences of field production facilities being situated outside the petroleum licence area – requiring separate infrastructure licences to be applied for, considered and granted.
- Extensions of fields, or newly discovered fields which are just outside the existing field area, will require additional production licence applications to be considered and granted before production can commence. This is in contrast to the current situation where the extension or new field could in many cases be produced under the existing licence, therefore representing an opportunity cost due to the time value of revenue.
- There may also be instances where water injection wells, and gas injection/disposal wells being situated outside a field boundary, are also outside the production licence. It is not clear under what rules this will be handled, although it is possible this will be another form of application and licence.
- Instances of unitisation being required are likely to increase. Generally, the requirement to unitise slows down development and makes decision-making more complicated, thus representing an opportunity cost.

Overall, in our view there will be a greatly increased administrative burden with no obvious advantage for any party. Woodside believes this proposal is worthy of further investigation by the Productivity Commission.

Proposed Reservoir Management Regulations under the OPA

These proposed regulations were discussed with a group of industry representatives and APPEA in late 2006 / early 2007. Since then progress appears to have stalled in favour of the current initiative to look at consolidating regulations under the OPA.

Essentially the proposals are framed around ensuring that sound reservoir management is accomplished by ensuring that operators maintain the Field Development Plan in an evergreen state, at all times consistent with the production performance and latest information from the field. Woodside fears that this approach will lead to an increased burden on operators, since currently the Field Development Plan is not revised at such frequent intervals and reservoir management is achieved through regular review of Reservoir Management Plans.

A central tenet of good reservoir management is the idea of "good oilfield practice". Generally speaking, parties have their own idea of what this entails and whilst in many cases government and industry representatives may have similar views, there will also be occasions where they differ. Since "good oilfield practice" is never or consistently defined, and also appears to be evolving over time, there is scope for misunderstandings and differences to arise, especially when the parties have differing drivers. In our view to base a regulation on this idea is therefore potentially hazardous and likely to result in delays to approvals and the perception on the part of industry of measures being demanded which are not in line with the achievement of maximum field depletion. It should be noted that some measures can have quite extreme impacts, when the method by which a field is produced is under consideration - for example, in the case of a large gas field that has a marginal oil resource associated with it, the requirement to produce the oil resource first can defer the profitable gas production by many years at great opportunity cost.

Responses to Specific Questions

1) Decommissioning (page 16, Section 2)

The current decommissioning arrangements require interfacing with multiple government agencies. This would be simplified if there was a single agency through which operators would submit decommissioning applications.

2) Redundant legislation (page 16, Section 3)

State and Commonwealth regulations for pipelines are virtually identical (in the case of WA). The duplication of effort by the State and Commonwealth in maintaining mirror regulations seems an obvious inefficiency. In addition, with the introduction of a number of PSLA Regulations over the past few years, the prescriptive requirements in the PSLA "*Schedule on Specific Requirements as to Offshore Petroleum Exploration and Exploration November 2005*" have progressively been revoked. However, that Schedule has not been kept up to date and consequently, causes confusion.

3) Overlap and compliance duplication (page 16, Section 3)

Onshore, State waters and offshore pipeline regulations require reporting by operators to be performed on annual basis. If a pipeline crosses more than one jurisdiction, the operator report needs to be submitted to more than one regulator. The main inefficiency here is the duplicated effort on the part of the regulators who have to process/review the same report from the operator.

4) Inadequate resourcing (page 20, Section 3)

DoIR has suffered a diminished technical capability in the area of pipeline management since 2005. In general, pipeline expertise has been obtained through consultants. In our experience, the lack of in-house technical people has had some impact on DoIR's ability to process approvals.

Examples are the recent pipeline approvals for the Perseus over Goodwin and Angel projects in WA. Formal submission was made to the Designated Authority, who was required to interface with NOPSA and the Department of Consumer and Employment Protection (pipeline expertise previously transferred from DoIR). In our view, this process was ineffective.

5) Metrics for performance (page 7, Section 1)

One useful measure might be the time taken from submission by operator to approval by regulator. Where there are no statutory timeframes this would be useful to monitor, but even where there are it is common for them not to be met. In our experience, even though the pipeline regulations stated that the Designated Authority must decide whether to grant the consent to construct within 28 days (and 7 days for consent to operate), approvals almost always took much longer than this. Delays in approvals have also been experienced with facility safety cases under NOPSA.

Thank you for the opportunity to raise the above issues with you as matters worthy of consideration by the Productivity Commission as you prepare your draft report. We look forward to continuing to work with you to address these issues and others impacting our business.

Yours sincerely



Rob Cole
Executive Vice President
Corporate Centre & General Counsel

Attached: Copy of submission: *Independent Review of the National Offshore Petroleum Safety Authority 2008*