



# Review of upstream competition and timelines of supply: Issues Paper

## Attachment 1: Response template due 15 October 2021

**Stakeholder name: Shell Australia**

	Questions	Feedback
<b>Box 3.1: Questions on government processes</b>		
1.	<p>Are there any other government processes that may affect the degree of upstream competition and/or the timeliness of supply?</p> <p>If so, please set out what they are and the effect that they may have on competition or supply.</p>	<p>Shell is supportive of and seeks to constructively work with Governments to streamline existing processes that reduce obstacles to efficient commercial outcomes which can improve timeliness of supply.</p> <p>Shell commends the Queensland Government for its proactive approach in facilitating the development of the CSG-LNG industry in Queensland. This has played a major part in enabling competition in the domestic gas market while, the restrictions on new developments in NSW and Victoria have a significant impact on the emergence of new sources of supply and consequently the level of competition in the East Coast domestic gas market.</p> <p>In addition, Shell supports the manner in which the Queensland Government has brought on new sources of domestic supply through its domestic gas reservation scheme. This scheme provides clarity on the investment conditions at the time of bidding and is preferable to regulatory intervention post investment. Intervention in existing projects, or even the risk of intervention, creates uncertainty, discourages</p>



	Questions	Feedback
		<p>additional investment, and therefore has the potential to reduce future supply.</p> <p>Shell is also supportive of the “Queensland Exploration Program” initiative, which is facilitating improvements in the Gazettal Process with the main benefit being a release in a forward schedule of exploration opportunities, which provides resource companies the ability to review the proposed releases early and plan their investment and exploration activities accordingly. Additionally, the associated ability for companies to provide expressions of interest on what land should be released also supports appropriate exploration churn and access to acreage.</p>
2.	<p>Should governments explicitly consider diversity and efficiency, or the potential impacts on competition, when awarding acreage? If not, please explain why not.</p>	<p>While diversity of ownership is an overall positive development, it can affect timeliness of supply by creating a patchwork of tenure holders which in turn can increase economic barriers i.e., where economies of scale are required and more likely to be achieved with large contiguous areas for development.</p> <p>Transparency around the evaluation criteria for assessment of bids is important, particularly the relative weighting of criteria. High levels of clarity would mean bidders were better able to react to the key requirements, leading to better realisation of the regulator’s intended outcomes.</p> <p>Diversity and efficiency can be mutually exclusive deliverables. Though the Queensland regime currently advocates for diversity in participation, there has been no clear articulation of what a qualitative assessment of diversity means. Thus, this assessment criteria remains quite vague and</p>



	Questions	Feedback
		<p>open to interpretation without the ability for a participant to understand how the criteria will be measured.</p> <p>Efficiency in delivering gas to market is referenced as a key criterion, but in practice, this objective can conflict with the objective to provide opportunities to less credentialled new entrants. Acreage awards have been granted to new entrants that would need to commence operations from scratch, rather than being granted to existing operators that have existing facilities and operations, understanding of the reservoir, and a proven track record of market delivery. This can delay delivery of gas to the market.</p> <p>As noted previously certain reservoirs require a high degree of technical and financial capability to explore/develop which limits the parties that can apply and meet the evaluation criteria. Often these acreage releases are discrete blocks surrounded by existing developments, so efficiency and speed to market could be better achieved by including these in the surrounding developments rather than awarding to a new proponent. We recommend a wider basin assessment of potential bidders and consideration of these factors when awarding acreage</p>



	Questions	Feedback
3.	<p>Should governments employ a more proactive approach when:</p> <p>(a) specifying the timeframes for exploration, appraisal and/or production and/or approving exploration or retention permit renewals where they have the discretion to do so?</p> <ul style="list-style-type: none"> <li>• If so, what is this likely to entail?</li> <li>• If not, please explain why not.</li> </ul> <p>(b) approving, monitoring and enforcing compliance with work programs?</p> <ul style="list-style-type: none"> <li>• If so, what is this likely to entail?</li> <li>• If not, please explain why not.</li> </ul>	<p>(a) specifying the timeframes for exploration, appraisal and/or production and/or approving exploration or retention permit renewals where they have the discretion to do so?</p> <ul style="list-style-type: none"> <li>• If so, what is this likely to entail?</li> <li>• If not, please explain why not.</li> </ul> <p>(1) Greater flexibility and discretion within the tenure framework would better support industry in the exploration and development phase of new projects.</p> <p>The current Queensland regime provides timelines that detail when work program obligations need to be completed. Currently Events outside the control of tenure holders, such as economic shocks (the Global Financial Crisis or COVID-19), and natural events (flooding or bushfires), are not factored into the exploration timeframes. Thus, greater discretion and understanding of macro-factors which may impact delivery would be beneficial to the industry as there is currently no flexibility within the legislation.</p> <p>Capital works often require a significant investment decision by venture participants and are usually based on a portfolio of assets, rather than individual licences. Better regulator understanding of the linkage between individual licences, different reservoirs and plays, the broader project delivery, broader basin issues would allow for a holistic consideration of licences. This, coupled with increased discretion in compliance assessments, would better support consistency between Operator activities, work program commitments and delivery to the market.</p>



	Questions	Feedback
		<p>Over time, companies must best manage their resource and tenures, reacting to unexpected surface and subsurface circumstances. Increased flexibility and options in managing tenures and the underlying resource will enable more efficient use, and potential recycling of area/resource. An example is removing the impediments to splitting and amalgamating existing PL's. Amalgamation can enable more efficient management, while splitting can support relinquishment of areas where the view of the underlying resource has changed, or where an area has reached end of field life</p> <p>(2) Timelines - Other than for gazettal rounds, there are no timelines specified for approvals or decision-making by the Queensland regulator in relation to tenure. Timelines for approvals processes would provide greater certainty for Operators to plan work programs to retain tenure.</p> <p>Timelines also need to recognise associated regulatory processes, especially lengthy environmental approvals and land access processes that must be complete before work can commence.</p> <p>(3) Lack of alignment of the tenure system and the environmental authority system has other unintended consequences, making management and release/churn of acreage difficult. For example, land rehabilitation conditions in environmental authorities require monitoring periods for final rehabilitation to extend beyond the life of an exploration tenure. Companies are confronted by a choice to manage rehabilitation monitoring obligations with limited access rights after tenure has ended</p>



	Questions	Feedback
		<p>or reducing the available exploration period to allow for rehabilitation monitoring within the tenure life.</p> <p>(b) approving, monitoring and enforcing compliance with work programs?</p> <ul style="list-style-type: none"> <li>• If so, what is this likely to entail?</li> <li>• If not, please explain why not.</li> </ul> <p>The Queensland regulator currently employs a proactive approach to enforcement of tenure compliance. Whilst this can be beneficial, exercising discretion when assessing compliance is also in the interests of the industry. As noted above, there are times when accounting for macro-factors in the assessment would provide for a more reasonable process when determining overall compliance. Being more proactive in monitoring overall project activity delivery would be a positive approach to supporting industry.</p>
4.	<p>What other ways could state, territory or Commonwealth governments encourage:</p> <ul style="list-style-type: none"> <li>• greater diversity in the upstream segment of the market?</li> <li>• more timely supply of gas to market?</li> </ul>	<ul style="list-style-type: none"> <li>• <b>greater diversity in the upstream segment of the market?</b></li> </ul> <p>While diversity is a key consideration for the Queensland market, the Regulator could further support this objective by giving more clarity about what diversity means e.g., does it mean a wide number of participants, different ownership structures? It would be helpful for this to be better explained.</p> <p>It is noted that the Queensland regime has seen acreage granted to newly established ownership structures, only for that acreage to be transferred to other operators or relinquished at the end of the work period, without field activities being undertaken.</p>



	Questions	Feedback
		<p>The legislative framework under the Environment Protection Act and Financial Provision Act does not allow nor support greater diversity but actually restricts it, creating significant administrative burden and red tape for no greater environmental outcome. This stems from the legislation and policies not supporting different ownerships and commercial structures on Environmental Authorities (EA). Currently, EAs need to have all the same tenure holders. However, in a scenario where there are multiple PLs with the same operator, if one PL was sold down to a small or medium cap proponent, this change to the tenure holder would require the proponents to obtain a new EA and new Estimated Rehabilitation Cost determination. This process could stymie future potential commercial deals where small proponents may want to buy into a PL, compression facility or pipeline listed on a EA.</p> <p>Through changes to legislation and understanding from the regulator on how these commercial structures work, diversity can be obtained.</p> <ul style="list-style-type: none"><li>• <b>more timely supply of gas to market</b></li></ul> <p>Release of acreage to credible operators proximate to existing producing fields, would help to ensure that development of near-field resources could be undertaken in a timely manner. Given capital constraints, operators face significant challenges in investment decisions, so access to quality acreage de-risks this part of the process and allows for faster development.</p>



	Questions	Feedback
		<p>Marginal and frontier exploration opportunities take time and understanding to progress from exploration to appraisal and production. It is difficult for any operator to make an accurate assessment of development potential at such an early stage of the process. Therefore, it is unrealistic to apply the same expectations for this acreage as is placed on proven development fields. Better understanding of the true challenges in these regions might provide a more realistic expectations about the timing of production.</p> <p>Streamlining environmental approval processes where there is a link to existing facilities and producing fields would fast track gas to market. For example, existing Federal approvals could be varied to include new scope when part of a broader project using the same management plans and practices. At a State level, adding new tenure holders to existing environmental authorities could expedite the introduction of new entrants.</p>
<b>Box 3.2: Questions on barriers faced by producers</b>		
5.	<p>Are there any other barriers that producers face when developing tenements that have not been identified in section 3.2 (for example, access to drilling or other appraisal related services) that may affect upstream competition and/or the timeliness of supply?</p> <p>If so, please explain what these barriers are and the effect that they can have on upstream competition and/or the timeliness of supply?</p>	<p>The most significant barrier to investment is the need to achieve an economic return on new developments that are inherently risky.</p> <p>Governments can support investors by providing a stable investment environment, characterised by certainty as to regulatory conditions,</p>





	Questions	Feedback
		<p>restraint when it comes to market intervention and respect for the terms of the contracts that have underpinned existing investments.</p> <p>In addition, it is clear that the cost of exploring for and producing gas in Eastern Australia has risen considerably in recent years.</p> <p>Whilst there has been some correction in costs in existing areas from the current downturn this is not readily transferrable to the frontier unconventional exploration sector where individual well costs can reach more than US\$50M.</p> <p>There is also limited infrastructure and services (drill rigs and seismic contractors) available within Australia to develop a successful unconventional shale play. In an industry currently constrained by capital this creates a barrier to entry. Additionally, in an already very challenging environment, policies that restrict development (e.g. gas moratoria) or create duplications in environmental regulation create further disincentives to those looking to explore for gas.</p>
6.	<p>Are there any effective ways to reduce the following barriers:</p> <ul style="list-style-type: none"> <li>• land access, environmental and other regulatory approvals?</li> <li>• access to capital and other commercial barriers?</li> <li>• access to infrastructure?</li> </ul>	<p>• <b>land access, environmental and other regulatory approvals?</b></p> <p>(1) Rehabilitation provisions in environmental authorities: an extension to the tenure or a specific rehabilitation tenure could be approved to allow explorers the full term to explore rather than a portion of the tenure term for monitoring rehabilitation.</p> <p>(2) Model Conditions - making individual or related groups of standard and streamlined model conditions available for specific types of activities</p>



	Questions	Feedback
		<p>would facilitate further development of existing assets, especially exploration assets. This could enable amendment of an existing Environmental Approval without further assessment because the Department has pre-assessed the environmental risk for these conditions.</p> <p>(3) Expediting land access – delays associated with the negotiation of land access arrangements have been exacerbated by disputes over payment of reasonable and necessary costs for landholders. While Shell supports the principles in the <i>Mineral and Energy Resources (Common Provisions) Act 2014 (MERC Act)</i>, this is a significant area of disagreement, leading to delays. Clarifying the legislative requirements about reasonable and necessary professional costs and allowing petroleum authority holders to challenge those costs without a landholder being out of pocket would ensure landholders can continue to access to professional advice without unnecessary delays to achieving access to land.</p> <p>● <b>access to capital and other commercial barriers?</b></p> <p>There are a number of industry commentators who have highlighted the challenges associated with the Oil &amp; Gas sectors continued access to capital.</p> <p>In addition, Shell would note that within Global Portfolio's, Australian assets also compete for a finite amount of capital. Thus, it is important that Australia remains attractive for investment including having a stable regulatory regime.</p>



	Questions	Feedback
		<p>• <b>access to infrastructure?</b></p> <p>See response to Q7</p>
7.	<p>Should the owners of upstream infrastructure (e.g. gathering pipelines, gas processing facilities and/or water processing facilities) that have spare capacity be required to provide third party access on reasonable terms?</p>	<p>Shell is open to making available spare upstream infrastructure capacity on commercial terms and has worked with several domestic CSG parties [<i>Confidential Section</i>] to explore opportunities for providing infrastructure access within the QCLNG project. Shell considers that the provision of spare upstream infrastructure capacity to third parties needs to be on commercial terms, so owners of infrastructure can determine the availability, impact on current production and reasonable compensation for the risk and investment made in the infrastructure. Any requirement to offer capacity on a regulated basis to third parties is expected to have a significant impact on long-term business planning for owners of such infrastructure.</p> <p>Key considerations for providing access include:</p> <ul style="list-style-type: none"> <li>• the need to operate infrastructure within safe limits;</li> <li>• a reasonable rate of return for infrastructure access; and</li> <li>• impact on production or existing commercial arrangements for the owners of infrastructure.</li> </ul> <p>Further, temporary existence of spare capacity could be a result of short to medium term supply-demand mismatch which owners of infrastructure could be working on to address as part of its business plans.</p>



	Questions	Feedback
		<p>It is important to understand some of the challenges of third-party access to infrastructure. While in theory, it may appear that connecting to existing spare capacity is the most logical approach, in reality, connecting to third party infrastructure comes with several complexities that need to be addressed to the mutual satisfaction of the parties, such as:</p> <ul style="list-style-type: none"><li>• QCLNG upstream infrastructure is located in areas that optimise the QCLNG upstream development. This infrastructure has a finite ability to transport gas i.e. additional intermediate compression (FCS), becomes necessary once gas is required to be transported over distances of more than ~10 km distances. This makes processing gas through third party facilities less attractive compared to developing in-field gas processing infrastructure;</li><li>• significant sustaining capex costs associated with ageing assets would need to be divided equitably under a shared capacity / operating life extension scenario;</li><li>• capacity to deliver gas to the domestic market can be limited due to existing arrangements.</li></ul> <p><i>[Confidential Section]</i></p> <p>Some challenges are evident from negotiations that have been undertaken with third parties that have sought access to QCLNG infrastructure.</p> <p><i>[Confidential Section]</i></p>



	Questions	Feedback
		<p>Therefore, a regulated approach to providing third-party access is unlikely to take into consideration all nuances of a particular situation and would likely result in a sub-optimal outcome, not only for existing infrastructure owners but also potentially for parties seeking access to such infrastructure.</p> <p><i>[Confidential Section]</i></p>
8.	Are there other ways to improve third party access to upstream infrastructure on reasonable terms?	<p>A market-driven approach to secure third-party access to infrastructure is the long-term sustainable solution. With respect to ‘reasonable terms’ (and gas pricing generally), it’s important to reiterate that the existing infrastructure was funded on the basis of long-term LNG contracts, so this infrastructure is inextricably linked with both domestic and global market forces.</p> <p>It is important to note that there are different models available for third party access to available capacity in infrastructure and a market-based approach allows parties the commercial flexibility to explore these alternatives. While much of the focus is often on the rights of third parties to process gas through existing infrastructure, while retaining ownership of the molecules, the QGC-Arrow collaboration is an example of an alternative approach. Commercial arrangements, including a long-term GSA, have enabled the use of capacity in the QCLNG infrastructure (gas and water processing, treatment and transportation infrastructure) to underpin the development of the Surat Gas Project.</p> <p>In response to concerns from potential users about difficulties in obtaining offers for third party access, Shell would support the</p>



	Questions	Feedback
		<p>introduction of guidelines requiring owners of infrastructure to respond to requests for expressions of interest in a timely manner, whilst not causing disruption to the existing businesses through imposition of unrealistic timelines.</p>
<p>9.</p>	<p>Would third party access to any other infrastructure (e.g. LNG processing facilities, storage facilities etc.) facilitate more upstream competition and/or the more timely development of supply into the domestic market?</p> <p>If so, please identify the infrastructure and the benefits that third party access would provide.</p>	<p>Shell does not consider that third party direct access to LNG processing infrastructure as necessary. As noted in the response to Question 8, there are other models available that can utilise the benefits of being connected to the LNG market without providing LNG tolling rights to third party facilities.</p> <p>For example, commercial access to the LNG market can facilitate timelier development of gas for the domestic market given the aggregation of customers purely for domestic supply is a challenging task given the scale and staggered nature of uncontracted demand, particularly in Queensland, or for Queensland-based producers who are some distance from the southern East Coast markets.</p> <p>Commercial access to the LNG market via products offered by LNG producers could de-risk domestic developments by shifting some key risks normally associated field development e.g. production profile, variation in ramp quantities and offtake risk via balancing mechanisms.</p> <p>A good example would be a domestic producer with an ideal production shape in a bell curve smoothing domestic production by selling the early peak to an LNG producer and recovering gas from that LNG producer over an extended term to enable the block supply of gas to the domestic market for an equivalent quantity of reserves over time. This type of</p>



	Questions	Feedback
		<p>mechanism could also de-risk reserves for the domestic market in a commercial way.</p> <p>An LNG producer could also supply balancing services to a variable domestic gas producer by either providing a firm nomination to market or a put/call option to a developing producer to cover under and overs and again de-risk volumes for the domestic market in a commercial way.</p> <p>Preferentially advocating for the allocation of upstream acreage for the pursuit of diversity of producer over capability to deliver, then restricting the market to which gas can be delivered, increases the risk to both supplier and domestic consumer and is potentially amplified by avoiding an upfront arrangement with an LNG producer that could de-risk proposals.</p>
<b>Box 4.1: Questions on JV arrangements</b>		
10.	<p>Are there any aspects of JV arrangements not identified in section 4.1 that may adversely affect upstream competition and/or the timeliness of supply?</p> <p>If so, please explain what they are and how they may affect upstream competition and/or the timeliness of supply.</p>	<p>Shell considers that joint ventures arrangements in Australia have facilitated the development of gas reserves in a way that has materially benefitted the domestic market. In 2020 QCLNG supplied ~97 PJ to the domestic gas market which is ~14% of East Coast demand. In 2021 QCLNG has supplied ~70 PJ to date, which is 14.9% of demand.</p> <p>There are a range of different JV structures that have been applied to develop gas reserves in Australia and each of these has been selected by</p>



		<p>the investing parties to best meet their objectives and commercial drivers.</p> <p>Overall, the complexities and challenges of JV decision-making are well articulated in Section 4.1 of the Issues Paper. However, JV arrangements are a standard feature of the oil and gas industry worldwide as a mechanism to share risk and enable development of ventures that are typically characterised by both uncertainty and the need for high investment. In this way, JV arrangements often facilitate investment and more rapid development of resources than might be possible with a sole developer.</p> <p>However, it is also recognized that it is possible for positions of a party in multiple JVs to drive decision making and result in some sub-optimal outcomes for the industry through delays in decision making and project sanctions. This is a risk factor in JVs globally that is typically managed by mechanisms to facilitate decision-making by way of voting thresholds, provisions allowing sole risk development and dispute resolution. Over-riding these mechanisms through regulatory measures will stifle creativity and have an adverse impact on the investment climate.</p> <p>It should be acknowledged that there are many different joint venture structures that have been used to develop gas reserves in Australia and each of these has been selected by the investing parties to best serve their objectives and a range of commercial drivers. Accordingly, regulatory intervention across these unique arrangements is likely to have very different outcomes.</p> <p>An aspect of JV arrangements not specifically articulated in the Issues Paper and which could impact decision-making is the possibility of</p>
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	Questions	Feedback
		divergence of views regarding energy transition and its consequent impact on project sanction. This is an area that we expect to be increasingly an important consideration in future decision-making relating to investment activities in projects globally.
11.	Are there any measures that could be put in place to address the potentially negative aspects of JVs identified in section 4.1 or in your response to question 10?	<p><b>No.</b></p> <p>Existing JV provisions and commercial negotiation between the parties are best suited to resolving disagreements impacting the pace of development. In Shell’s experience, formal measures involving escalation of JV matters to Government bodies to break decision-making deadlocks usually leads to further deterioration of relationship between JV parties, ultimately resulting in even slower decision making.</p>
12.	<p>Are there provisions in the contractual arrangements that underpin JVs that can adversely affect competition and/or the timeliness of supply?</p> <p>If so, how could this be addressed? Is there, for example, a best practice JV arrangement that would prevent this occurring?</p>	<p>Typically, key decision making in joint ventures is governed through votes based on the participating/equity interest of each partner and a pass-mark which allows certain decisions to be made even if all partners are not in agreement. There can also be certain decisions which require the unanimous approval of all partners which provides protection for partners with smaller equity shares.</p> <p>Further, JV arrangements also tend to provide for sole-risk operations such that in the event of certain parties choosing not to participate, other parties can take the project forward.</p>
13.	<p>Are there any approaches (either in place, or that could be put in place) designed to help level the playing field between larger and smaller producers in the same JV?</p> <p>Please explain how these approaches work.</p>	As noted above; how a JV functions is largely linked to how decisions are voted upon (including thresholds) which is negotiated as part of establishing a JV. It is less to do with whether the party is a large or small



	Questions	Feedback
		producer but rather the parties' equity interests and who is the operator of the JV.
14.	Do you consider that proposals by larger producers to enter into JV arrangements (or farm into existing JV arrangements) should be subject to mandatory notification requirements and ACCC consideration? Please explain your response to this question.	<b>No</b> – there should be no new_mandatory notification requirement as it is unclear what anti-competitive conduct would be the subject of a notification. The existing framework under the Competition and Consumer Act 2010 is sufficient.
15.	Is any other form of oversight of JV arrangements required?	<b>No.</b> JV arrangements are extensively negotiated between JV partners and are not a new concept.  There is a natural tension between JV partners to challenge each other and in particular, the operator of the venture in relation to efficient operations, cost, and timing of investment. Whilst JV arrangements can give rise to disagreements, (as partners will make decisions based on their own drivers), Shell does not consider that external oversight will solve such tensions or help drive more competition. Instead, oversight might act as a barrier or a disincentive to investing in Australia.
<b>Box 4.2: Questions on mergers and acquisitions</b>		
16.	Section 4.2 sets out how mergers and acquisitions of individual tenements can affect competition and/or the timeliness of supply. Are there any other ways in which mergers and acquisitions could affect competition and/or the timeliness of supply that have not been identified?  If so, please explain what they are and the effect that they can have on upstream competition and/or the timeliness of supply?	We have not identified potential impacts to competition or timeliness of supply beyond the potential implications raised in Section 4.2.
17.	Do you think the current merger regime has been working effectively to date?	In Shell's opinion the current M&A regime has worked effectively to date.



	Questions	Feedback
	If not, please explain why not.	
18.	<p>Do you think the current merger regime can work effectively in the highly concentrated upstream market?</p> <p>If not, please explain what changes you think are required?</p>	<p><b>Yes.</b> The current merger review process under s50 of the <i>Competition and Consumer Act 2010</i> is sufficiently flexible to address competition issues where they arise in any market. A sector-specific regime (as suggested by some respondents) is not required and could lead to adverse consequences for the sector if it is more onerous than the merger control processes faced by market participants in other parts of the economy.</p>
<b>Box 4.3: Questions on joint and separate marketing</b>		
19.	<p>Are there any aspects of joint marketing by unincorporated JVs not identified in section 4.3 that may adversely affect upstream competition and/or the timeliness of supply? If so, please explain (with examples if possible):</p> <ul style="list-style-type: none"> <li>• what they are</li> <li>• how they may effect upstream competition and/or the timeliness of supply</li> <li>• any measures that may be able to address them.</li> </ul>	<p><b>No.</b> Shell does not consider that marketing arrangements in either incorporated or unincorporated joint ventures in the east coast market are negatively impacting competition or the timeliness of supply. In fact, these arrangements have supported the formation of joint ventures that have invested in the development of significant sources of new supply. Intervention in established commercial arrangements that serve the objectives of the joint venture and comply with the <i>Competition and Consumer Act 2010</i> is not warranted and creates sovereign risk that diminishes the appetite for further investment.</p> <p>Section 4.3 of the Issues Paper uses a case study in relation to GBJV to illustrate the benefits of separate marketing and implies this is a model that could be replicated for other joint ventures in which the participants do not market their equity share of gas to the domestic market. In considering the questions posed in relation to section 4.3, it is important to understand the material differences between the case of the</p>



		<p>GBJV and the Queensland upstream gas producers. These include that GBJV:</p> <ul style="list-style-type: none"><li>• is a domestic supplier and is not connected to the LNG market;</li><li>• as a conventional source of supply;</li><li>• has decades of operating experience with more predictability in its gas supply profile, which flows into confidence for both partners over the volumes it can market domestically;</li><li>• has a single interface with east coast gas market and simple infrastructure arrangement (one pipeline, single meter);</li><li>• was established in 1964 and began jointly marketing in 1969 thus both JV partners are hugely experienced with the Australian East Coast domestic market. This experience has no doubt been vital to the successful implementation of separate marketing;</li><li>• has material gas volumes made available for domestic consumption.</li></ul> <p>Therefore, given these differences, the outcome of imposing a separate marketing requirement might not be the same for CSG-LNG projects as experienced with GBJV. In particular, it should be noted that some participants in the Queensland LNG projects hold relatively small shares and lack any existing east coast domestic marketing capability. For these entities, the cost to serve the domestic market could be disproportionately high. Some consequences of imposing separate marketing could be:</p>
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	Questions	Feedback
		<ul style="list-style-type: none"> <li>reduced appetite for further investment by smaller JV participants in sanctioning further upstream developments that would result in additional volumes for domestic marketing. Under these circumstances there would be less volume available for the domestic market;</li> <li>the potential for smaller participants to be less active in the domestic market (for example looking to discharge their obligations with a few large sales rather than actively trading).</li> </ul> <p>Finally, it should be noted that joint marketing arrangements do not adversely impact <i>timeliness</i> of supply. Supply is directly connected to the sanction of upstream developments in order to support the long-term LNG commitments. This would remain the case even if separate marketing of domestic volumes was required.</p>
20.	<p>What are the factors that may make establishing balancing arrangements difficult in one case, and easier in another? How has this changed over time?</p> <p>Please provide examples if possible.</p>	<p>There is a significant difference in balancing arrangements for a joint venture such as GBJV (or even the North West Shelf) and the CSG-LNG projects. Balancing arrangements are particularly complex for integrated CSG-LNG projects in which such arrangements apply not only to domestic sales but also LNG sales.</p> <p>For example, QCLNG has multiple interfaces with the gas market and a complex infrastructure set-up i.e. multiple ex-network connection gas sales stations impacted by pressure and gas flow requirements.</p> <p>This introduces considerable complexity already. In separately marketing domestic gas, while continuing to serve the LNG plant, current challenges</p>



	Questions	Feedback
		<p>would be exacerbated if the Operator needed to manage various competing supply arrangements (pressure, volume, TOP, PI) for each project participant.</p> <p>In addition, if equity proportions of gas and LNG lifted by each of the QCLNG Parties varied from their participating interests in the project, there would be a significant impact on procedures which currently govern allocation of capacity in the LNG Trains and Common Facilities to the various users and apportionment of costs. Shell would welcome the opportunity to consider this in more detail with the ACCC.</p>
21.	<p>In what circumstances do you consider allowing producers to jointly market gas would be beneficial?</p> <p>Please provide examples of current producers that are jointly marketing their gas and what you consider the likely impact would be on competition or the timeliness of supply if they were to separately market.</p>	<p>Joint marketing of gas has been beneficial in facilitating the development of previously uneconomic unconventional gas reserves.</p> <p>In considering this issue, it is important to understand that one purpose of any “joint” marketing arrangements within Queensland LNG projects, including both QCLNG and Arrow, has been to secure the gas necessary from multiple different upstream joint ventures to service both existing domestic contracts and long-term LNG contracts. This has underpinned the \$80bn investment made by the industry since 2010 to bring this gas to market, and contribute to the development of a new, and globally-significant, gas export industry for Queensland.</p> <p>The separate marketing of domestic gas would be not only be challenging given the existing project structures, but is likely to have little positive impact on either increasing competition or the timeliness of supply.</p>
22.	<p>Do you consider the current competition laws are sufficient to respond to the issues around joint marketing by unincorporated JVs?</p>	<p><b>Yes</b></p>



	Questions	Feedback
	Please explain your answer including, if relevant, any changes you think may be required.	Shell is satisfied with the existing legal framework.
23.	<p>Are there any aspects of the arrangements relating to the sale of gas by incorporated JVs that may affect upstream competition and/or the timeliness of supply? If so, please explain (with examples if possible):</p> <ul style="list-style-type: none"> <li>• what they are</li> <li>• how they may effect upstream competition and/or the timeliness of supply</li> <li>• any measures that may be able to address them.</li> </ul>	No
24.	<p>Do you consider the current competition laws are sufficient to respond to the issues around the arrangements relating to the sale of gas by incorporated JVs?</p> <p>Please explain your answer including, if relevant, any changes you think may be required.</p>	Yes
<b>Box 4.4: Questions on exclusivity provisions</b>		
25.	<p>Section 4.4 describes how exclusivity provisions in GSAs between producers may restrict upstream competition.</p> <ul style="list-style-type: none"> <li>• Are there any other ways that these provisions might restrict competition? If so, please explain what they are.</li> <li>• Are there any competition or efficiency benefits associated with these types of provisions?</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Are there any other ways that these provisions might restrict competition? If so, please explain what they are.</b></li> </ul> <p>An exclusivity provision in a Gas Supply Agreement (GSA) cannot be reviewed or commented on in isolation. The commercial structure of a GSA is influenced by a range of factors and risks, including price, certainty of supply, counterparty risk, timing and volume etc. An exclusivity provision in a GSA can also provide greater certainty for the producer (seller) to de-risk their project allowing them to commit greater capital to develop their upstream resources.</p> <p>For larger developments, certainty of revenue via an exclusivity provision could be the catalyst for the producer (seller) to develop its upstream</p>



	Questions	Feedback
		<p>acreage. Therefore, Shell does not consider exclusivity provisions in GSAs necessarily restrict competition, but may instead enable competition by supporting the case for investment in new developments.</p> <ul style="list-style-type: none"> <li>• <b>Are there any competition or efficiency benefits associated with these types of provisions?</b></li> </ul> <p>As noted above Shell considers that exclusivity provisions in GSAs could in many cases improve competition by providing producers with greater certainty over revenues and encourage development of resources.</p>
26.	If exclusivity provisions are restricting competition, how should this be addressed?	Shell does not consider that exclusivity provisions need to be addressed.
27.	<p>Should producers only be allowed to enter into exclusivity arrangements if they have sought and obtained authorisation from the ACCC before doing so?</p> <p>Please explain your reasons.</p>	<p><b>No.</b> Exclusivity arrangements are part of a wide mix of commercial factors that influence the structure of a GSA, including price, term, volumes, and certainty of supply. Shell considers that it should remain up to the Buyer and Seller to find mutually acceptable commercial terms which are consistent with the <i>Competition and Consumer Act 2010</i> for their arrangements as requirements for further approvals will only hinder the market dynamics and increase overall project risk.</p>
<b>Box 4.5: Questions on decisions on when to develop new sources</b>		
28.	Section 4.5 sets out some of the technical, commercial and strategic factors that may affect producers' decisions about when to develop new sources of supply and the timeliness with which gas is brought to market. Are there any other factors that may influence these decisions?	There are many technical and commercial factors that can influence the development of new fields. Development requires significant upfront investment in exploration/appraisal and then construction of wells and infrastructure. Risks can be high; typically many years of production are required to generate an adequate return on the initial investment with





	Questions	Feedback
		<p>considerable uncertainty over initial performance and long-term producibility.</p> <p>Sales prices and access to markets add considerable uncertainty and commercial acumen is required to ensure that risks are reflected in contracts and priced accordingly. Significant technical expertise is required to ensure that gas is developed and produced safely and efficiently. Lengthy approval process and, increasingly, legal challenges add uncertainty and delay production. Potential for fiscal changes, such as new royalty and tax regimes, also need to be considered. Decisions to invest in new fields are not taken lightly.</p>
29.	<p>Section 4.5 also outlines some of the reasons why larger producers may want to 'bank' or 'warehouse' gas. Are there any other reasons why they may want to withhold supply in this manner?</p>	<p>For Shell, the timeliness of supply to the domestic market is directly connected to the sanction of upstream developments to support the long-term LNG commitments underpinning the significant investments made in QCLNG and Arrow in Queensland.</p> <p>Undeveloped gas from Shell's existing fields is not being warehoused. Economic wells are included in field development plans and are developed over time to maintain production within infrastructure constraints and at cost-efficient rates for drilling and associated work crews.</p> <p>LNG project revenue is largely driven by global oil and LNG markets, which are unaffected by drilling rates in Australian projects and so an objective to maintain or raise prices is not a realistic consideration when considering the pace of gas development.</p>



	Questions	Feedback
		In summary Shell does not regard undeveloped gas as being warehoused, but rather as already committed to meeting QCLNG’s existing legacy domestic contracts and export contracts i.e. it is just waiting for its time in the queue. The variability in the upstream field’s performance will determine how much excess volume there is and hence what additional volume is available to be marketed to the domestic market.
30.	If gas is being 'banked' or 'warehoused' how do you think this should be addressed?	Shell does not believe that gas is being warehoused by producers. States, however, should not prevent gas from being developed.