

Submission of the Applicants to the ACCC

Background

1. Inpex Operations Australia Pty Ltd, Chevron Australia Pty Ltd, Shell Australia Pty Ltd and Woodside Energy Limited (the **Applicants**) submitted joint applications for authorisation on 12 September 2017 (**Application**).
2. On 21 December 2017 the ACCC published its Draft Determination in which it proposed to authorise the proposed conduct for a period of five years.
3. The Applicants have been provided with a copy of one submission which the ACCC received in response to the ACCC's Draft Determination. The ACCC has invited the Applicants to provide a submission to the ACCC in response to that submission.

Submission in response to the Draft Determination

4. In its Draft Determination, the ACCC concluded that the proposed conduct:
 - (a) was likely to result in a number of public benefits;
 - (b) was likely to result in some public detriment by reducing competition in the acquisition of maintenance services, although such detriment was unlikely to be significant,however, overall, the likely public benefit would outweigh the likely public detriment.
5. The ACCC also concluded that it did not consider that any condition should be imposed on the Applicants requiring them to publicly disclose when they will be shutting down their LNG facilities to undertake maintenance.
6. On this basis, the ACCC has proposed to authorise the proposed conduct for a period of five years.
7. The Applicants support the ACCC's Draft Determination. Notwithstanding that the Applicants applied for an authorisation for a period of 10 years, they do not make any further submissions on that issue in this submission.

Energy Matrix Submission

8. The ACCC received a submission from Energy Matrix Group Pty Limited (**EMG**) in response to its Draft Determination.
9. The EMG Submission is supportive of the ACCC's Draft Determination insofar as it concurs that the net public benefit test has been met.¹ However, the EMG Submission recommends that the ACCC impose a condition on the Applicants requiring them to publicly disclose the information they share amongst themselves when engaging in the proposed conduct.
10. In its submission, EMG makes the following points:²
 - (a) That there are vibrant spot and firm gas trading markets already operating in Western Australia, one of which is the gasTrading Spot Market, operated by a wholly owned subsidiary of EMG; and

¹ Energy Matrix Group Pty Limited, *Submission regarding the ACCC Draft Determination to authorise certain proposed conduct by Chevron, INPEX, Shell and Woodside to coordinate planned LNG Plant maintenance in Western Australia and the Northern Territory*, January 2018, p 3 (**EMG Submission**).

² EMG Submission, pp 4-5.

- (b) The volumes of gas traded on the gasTrading Spot Market during December 2017 was comparable to the volumes traded in the AEMO Wallumbilla and Moomba Hubs.
11. EMG submits that the ACCC's conclusions regarding the potential impact of information asymmetries on domgas market participants is flawed.³
12. Consequently, EMG argues that this issue should be remedied by the ACCC requiring the Applicants to publicly disclose the information they share amongst themselves.

Response to EMG Submission

13. As a preliminary issue, the Applicants have assumed that EMG's suggestion that the Applicants publicly disclose information they share amongst themselves relates only to the scheduling of shutdowns of LNG trains at their respective LNG facilities. By their applications the Applicants have applied to engage in conduct that would involve them sharing information on a range of issues.⁴ Any proposal that the Applicants publicly disclose all information shared amongst them would be entirely inappropriate and unwarranted.
14. Therefore, assuming that EMG is only suggesting the imposition of a disclosure condition of the kind imposed by the ACCC in the East Coast Authorisation matter, the Applicants submit that, in any event, there is no reason for any disclosure obligation to be imposed on them.
15. The Applicants refer to their previous submission to the ACCC dated 1 December 2017, and in particular, to paragraph 16(b) and (c).

Domgas supply unaffected by the proposed conduct

16. In order for the ACCC to consider imposing a condition of the kind it imposed in the East Coast Authorisation matter, the conduct proposed to be engaged in by the Applicants would need to have a direct impact on the market for the supply or acquisition of domgas in the Northern Territory or Western Australia.
17. Such a nexus existed in the East Coast Authorisation matter (discussed below) because the LNG producers, having knowledge of when each of them would shut down their respective LNG facilities, and therefore, when there could be expected to potentially be an increase/decrease in the supply of gas into the market, possessed information that other market participants did not have.
18. In this case, the proposed conduct will not have any impact on existing domestic gas supply arrangements. This will not change, even if a gas trading hub or STTM were established.
19. Two of the Applicants (Chevron and Woodside) currently supply gas they produce in Western Australia into the domestic gas supply market via the Dampier to Bunbury Natural Gas Pipeline (and are likely to continue to do so). However, as previously outlined to the ACCC, not only are Chevron and Woodside's domestic gas production facilities physically separate to their LNG facilities, they are also operated independently from their LNG facilities. This means that a shutdown of one of their LNG trains does not have an impact on their production of domestic gas for supply into Western Australia. Domestic gas will continue to be produced in response to customer demand for gas and the respective capacities of Chevron's and Woodside's domestic gas plants to produce domestic gas. Each of these factors will not be affected by a shutdown of an LNG train.

³ EMG Submission, p 5.

⁴ See paragraph 2(a) of each of Form A and Form B submitted by the Applicants and dated 12 September 2017.

East Coast Authorisation

20. The Applicants do not agree that the circumstances that exist in relation to their applications for authorisation are analogous to the East Coast Authorisation. The Applicants submit that it would be erroneous to compare the two cases. The circumstances which gave rise to the imposition of an information disclosure condition in the East Coast Authorisation matter are specific to, and should be confined to, that matter.
21. The following facts from the East Coast Authorisation matter are not controversial:
- (a) in Queensland the vast majority of the gas extracted by the LNG producers from coal seam gas wells is converted into LNG for export;
 - (b) when an LNG producer shuts down one of its LNG trains, it faces having excess gas because it is unable to turn down its coal seam gas wells to any material extent;
 - (c) LNG producers must either flare their excess gas or seek to supply the gas into the market;
 - (d) the ACCC concluded that a decision by an LNG producer to supply its excess gas into the market would have a significant impact on the quantity of gas supplied in the market, thereby potentially affecting the market price for gas.
22. As a result, these potentially significant fluctuations in the supply of gas into the market (i.e. before, during and after a shutdown) were considered by the ACCC as warranting the need for the LNG producers to publicly disclose the proposed dates for planned shutdowns of their LNG trains.
23. The ACCC summarised the relevant concern in the following way:⁵
- "These concerns focused on the Applicants' participation in domestic gas markets, particularly the gas hub at Wallumbilla and the Brisbane Short-Term Trading Market. When the Applicants' facilities go offline (e.g. for maintenance), they may sell excess gas in these domestic markets, sometimes in very large quantities. Similarly, at the conclusion of downtime, the Applicants may purchase gas from domestic markets when ramping up LNG production. These activities can drastically affect market prices."*
24. These circumstances are specific to the Queensland LNG producers and do not arise in the case of the Applicants. This is because, first, the Applicants' gas is extracted from conventional gas wells which may be turned down during the shutdown of an LNG train. Second, as previously acknowledged by AEMO, the gas supply arrangements in Western Australia primarily involve the supply of gas under long-term bilateral contracts.⁶ Third, as discussed above, the production of gas for supply in to the domestic market in Western Australia occurs at domestic gas plants which are physically separate to the LNG facilities and are operated independently of the LNG trains.
25. For these reasons, the Applicants submit that there is no reason for imposing on them any condition of the kind suggested by EMG.

⁵ ACCC, *Determination: Applications for authorisation A91516 & A91517*, 14 April 2016 p i.

⁶ AEMO Submission dated 27 October 2017, p 2.