
Annexure 2

Previous interim authorisations applied for and granted

1. Introduction

- 1.1 A number of the current Participants in the Papua New Guinea (**PNG**) Gas Project (the **Project**) first applied to the Australian Competition and Consumer Commission (**ACCC**) for interim authorisation for the joint marketing of gas produced by the Project in 1998. An interim authorisation was granted to the Project. In 1999, a modification of the interim authorisation (dealing with administrative issues) was granted by the ACCC. In 2000, the current Participants and Santos applied for a new interim authorisation to replace the earlier one. The ACCC granted interim authorisation and the Participants are currently engaging in joint marketing of Project gas pursuant to the 2000 interim authorisation.
- 1.2 The details of the various interim authorisations granted by the ACCC are set out below.

2. Interim Authorisation – 1998 (application number A90668)

- 2.1 A number of the current Participants (together with other related companies which are not applicants to the final authorisation application) applied for interim authorisation in relation to the Project in June 1998.
- 2.2 The 1998 application was sought as a response to the need to aggregate the gas produced from the Project reserves. The 1998 applicants submitted that no individual share of the gas reserves was sufficient to make the Project viable, either in terms of volume to justify construction of the pipeline, or to meet the requirements of the primary prospective Australian customers (**Foundation Customers**) even if the pipeline was in place. The applicants also submitted that the Project would only proceed if sufficient volumes of gas were committed to sale in Australia. For this to occur, the applicants needed to:
- discuss, between themselves, the terms upon which they would agree to the supply of gas to Foundation Customers; and
 - negotiate the terms of supply with Foundation Customers.
- 2.3 The applicants noted in their application that the benefits likely to flow from the Project were already well recognised by the public statements and administrative arrangements made by the PNG commonwealth state and local governments. It was submitted that one of the Project's key public benefits was the potential introduction of a major new source of gas supply into the Australian market which would result in:
- increased competition in relevant markets (specifically, the Australian energy/gas markets);
 - stimulation of employment in Queensland;

- increased economic development through encouragement of exploration, research and capital investment;
- promotion of industry cost savings resulting in lower prices at all levels in the supply chain;
- the fostering of business efficiency; and
- significant social and economic benefits to Aboriginal and Torres Strait Islander people, and to pastoralists and other landholders, through compensation payments, employment and training opportunities and community development.

2.4 The ACCC granted authorisation to the then applicants in August 1998 (the **1998 Interim Authorisation**). The 1998 Interim Authorisation authorised the relevant parties to discuss terms upon which they would agree to the supply of gas to Foundation Customers and negotiate the terms of supply pursuant to section 88(1) of the *Trade Practices Act 1974* (Cth) (**TPA**) with potential Foundation Customers.

3. Interim Authorisation – 1999 (application numbers A90667 and A90668)

3.1 In November 1999 a slightly altered group of applicants (the **1999 Applicants**) sought four modifications to the 1998 Interim Authorisation. The modifications sought were largely for the purpose of clarifying the 1998 Interim Authorisation application based on matters of administration rather than substance. The only modification of substance related to the extension of the 1998 Interim Authorisation to all potential contraventions of section 45 of the TPA instead of only applying to potential contraventions of section 45A of the TPA.

3.2 The 1999 Applicants submitted that the modifications sought did not reflect any change in the conduct authorised by the 1998 Interim Authorisation and did not decrease the public benefit resulting from the authorised conduct or add to the public detriment caused by the authorised conduct. In respect of the parties to the interim authorisation, the 1999 Applicants requested that the 1998 Interim Authorisation be extended to include companies in the Santos Group.

3.3 The ACCC revoked the 1998 Interim Authorisation and substituted it with an interim authorisation on 3 December 1999 (the **1999 Interim Authorisation**). The 1999 Interim-Authorisation did not extend to Santos.

4. Interim Authorisation – 2000 (application number A40081)

4.1 In September 2000, the current Participants, plus Santos, (the **2000 Applicants**) applied to the ACCC for the 1999 Interim Authorisation to be modified to reflect changes in circumstances impacting on the viability of the Project. Due to changes in the parties involved, the 1999 Interim Authorisation was no longer applicable.

4.2 The 2000 Applicants submitted that the gas reserves of the original applicants would not be sufficient to meet the requirements of foundation volumes necessary for the Project. Project viability relied on the ability to source gas from the Petroleum Development Licence

(**PDL**) 1 gas field (Hides) in which both ExxonMobil and Santos had an interest. As joint licensees of the PDL1 permit, the PDL1 producers owned the gas in common making it commercially impractical for the Project to acquire gas from some, but not all, of the PDL1 producers.

- 4.3 The 2000 Applicants noted that the capital investment required for the Project would be substantial and that such a large scale operation would require the full cooperation and alignment of all parties, both to provide their own resources and to spread the risks associated with the Project. The 2000 Applicants submitted that the Project could only proceed if all of the gas producers jointly marketed the gas and became direct contractual parties to the gas sale and purchase agreements.
- 4.4 The 2000 Applicants outlined numerous public benefits associated with the Project. The benefits included the:
- promotion of competition and greater efficiency in the energy market in Eastern Australia;
 - encouragement of capital development and investment in Australia;
 - increase of employment; and
 - reduction of potentially harmful emissions from the use of other energy sources.
- 4.5 The ACCC granted interim authorisation on 13 October 2000 (the **2000 Interim Authorisation**).
- 4.6 In October 2001, Santos withdrew from the Project. Chevron Nigugini (**Chevron**), whose predecessor Chevron Australia Pty Ltd was a participant at the time that the 2000 Interim Authorisation was granted, also withdrew from the Project in July 2003. Esso Highlands replaced Chevron as the Project Manager.