

28 May 2010

Mr David Hatfield/ Mr Simon Mitchell  
Director/Project Officer, Adjudications  
Australian Competition and Consumer Commission  
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Dear Mr Hatfield and Mr Mitchell

### **Authorisation application by North West Shelf**

As you are aware, we act for Chevron Australia Pty Ltd, Chevron (TAPL) Pty Ltd, Mobil Australia Resources Company Pty Limited and Shell Development (Australia) Pty Ltd (the **Participants**), who are joint venturers in the Gorgon Gas Project (the **Project**).

The Participants refer to the allegation made by the DomGas Alliance in its submission regarding the North West Shelf authorisation application that the ACCC was 'misinformed by producers' in relation to Pohokura. In its allegation, the DomGas Alliance contends that the ACCC was misinformed in relation to the 'significance of risks and costs of gas balancing / separate selling arrangements' regarding Pohokura, when 'Instead, the disputes [between the Pohokura participants] appear to be concerned with Shell having operational control of the Pohokura Project, the rate of gas production and minority partner Todd's rights as a joint venture partner.'<sup>1</sup>

This allegation is completely without foundation. It is based on selective information relating to other actions associated with Pohokura that are not directly related to separate marketing, and ignores the significant dispute recently heard by the New Zealand High Court which centres on matters of specific relevance to gas balancing.

The Participants have explained the Pohokura situation on a number of occasions, including in the following statements:

To date, the Pohokura venturers have not been able to agree on gas balancing arrangements. There has been litigation in relation to a number of matters between the parties, including gas balancing, which commenced as early as 2006 (the year that production commenced). Litigation in relation to gas balancing is due to be heard by the New Zealand High Court in early 2010.<sup>2</sup>

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<sup>1</sup> DomGas Alliance, North West Shelf Gas: Application for Joint Selling Authorisation, 30 April 2010, Appendix to submission, p.33.

<sup>2</sup> See letter from Allens Arthur Robinson to David Hatfield and Simon Mitchell dated 24 August 2009, available on the ACCC website at :  
<http://www.accc.gov.au/content/trimFile.phtml?trimFileName=D09+96958.pdf&trimFileTitle=D09+96958.pdf&trimFileFromVersionId=901112>.

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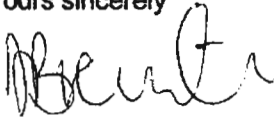
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The litigation that has resulted from a failure / inability to develop gas balancing agreements in the Pohokura project highlights the substantial risks facing the Participants and the reasons why gas balancing agreements are not feasible in illiquid markets like the WA market.<sup>3</sup>

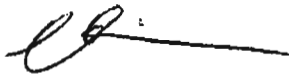
The statements previously made to the ACCC were, and remain, accurate.

As far as we are aware, no judgment has been handed down by the New Zealand High Court as of the date of this letter in relation to the litigation referred to above.

Yours sincerely



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<sup>3</sup> Gorgon Gas Project, Submission to the Australian Competition and Consumer Commission in Response to the Draft Determination, 9 October 2009, at [2.5].