

## **NWS Project applications for authorisation A91220-A91223**

### **Applicants - record of meeting:**

**Monday 31 May 2010**

**Applicants:**

Damian Johnston (NWSG)

Greg Heath (NWSG)

Peter McDonald (Freehills)

Sarah Benbow (Freehills)

**ACCC:**

Commissioner Willett

David Hatfield

Richard Chadwick

Jaime Martin

Simon Mitchell

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The ACCC discussed the issues raised by the Applicants in their most recent submission. In addition the Applicants made the following points:

- The Applicants were recently unsuccessful in securing a gas supply contract with Wesfarmers (GSA announced by Santos on 13 April 2010), which is evidence of competition in the market.
- The Applicants consider that the Trade Practices risk or any detriment of the parties giving effect to existing contracts (several of which were formed under past ACCC authorisation) is very low. However, obtaining legal certainty for GSA administration under authorisation is considered important.
- The Applicants are not in a position to dedicate significant additional volumes of gas to LNG export until LNG plant processing capacity becomes available in the future.
- The Applicants' response to the Varanus Island supply disruption (a joint decision to market / supply above plant committable capacity) and the ability to reach an expeditious agreement to compromise the Alinta price arbitration (a joint agreement to continue supply at a price below that determined by the independent arbitrator) demonstrates the benefits of joint marketing and contract administration. In particular, it would have been more difficult / impossible to reach these outcomes were each separate entity making individual domgas marketing and selling or administrative decisions.
- If authorisation was denied and the WA Government required the NWS project to supply additional domgas, the Applicants could potentially seek a State Government exemption from the Trade Practices Act (although the Applicants do not underestimate the complexity involved). A State exemption was granted in relation to the reservation requirements imposed when the Project was formed.

- The request for authorisation to cover new contracts up to 25 years in length is consistent with the Gorgon determination and customers' preferences for long term certainty. However, the duration of any GSAs formed will depend on factors such as future investments, reserves availability, market conditions and buyer requirements. The Applicants have sought authorisation to extend to new contracts for up to 25 years for certainty, rather than have to come back for re-authorisation should these circumstances arise.