

Undertaking to the Australian Competition and Consumer Commission

Given under section 87B of the *Competition and Consumer Act 2010* (Cth) by MidOcean Energy Holdings Pty. Ltd.

Contents

1. Person giving the Undertaking	1
2. Background	1
3. Commencement of this Undertaking.....	3
4. Cessation of Ongoing Obligation.....	3
5. Waiver of rights to Walloons East Coast Gas Sensitive Information	4
6. Self-reporting and ACCC requests for information.....	5
7. Notification of key dates	6
8. Disclosure of this Undertaking	6
9. No Derogation	6
10. Change of Control.....	6
11. Costs	6
12. Notices	7
13. Defined terms and interpretation.....	8
Schedule 1 – Dictionary and interpretation	10

1. Person giving the Undertaking

- 1.1. This Undertaking is given to the Australian Competition and Consumer Commission (**ACCC**) by MidOcean Energy Holdings Pty. Ltd. (**MidOcean Energy**).

2. Background

2.1. The Proposed Acquisition and Tokyo Gas Transaction

- (a) Brookfield LP and MidOcean Reef BidCo Pty Ltd (Australia) (**MidOcean Bidco**) propose to acquire Origin Energy Limited (**Origin**) through the following two interdependent acquisitions:
- (i) **Scheme Acquisition:** It is proposed that MidOcean Bidco will acquire 100% of the ordinary shares in Origin pursuant to a scheme of arrangement under the *Corporations Act 2001* (Cth) (the **Scheme Acquisition**). To implement the Scheme Acquisition, a binding scheme implementation deed was signed on 27 March 2023 by Origin, MidOcean Bidco and Brookfield Renewable Group Australia Pty Ltd.
 - (ii) **On-Sale Acquisition:** Conditional upon, and as soon as possible following implementation of the Scheme Acquisition, MidOcean Bidco will procure that Origin and its interests are divided into two separate businesses, being the Origin Energy Markets business and the Origin Integrated Gas Business. Origin's Energy Markets business comprises Origin's energy retailing business, electricity generating assets, energy wholesale and trading business, development assets relating to energy production and storage, its investment in Octopus Energy and its LPG business and domestic gas trading business. Origin's Integrated Gas Business comprises Origin's upstream gas interests and shareholding in Australia Pacific LNG (**APLNG**). The separation of Origin will be implemented by MidOcean Bidco procuring the sale of the various Origin subsidiaries and assets comprising the Origin Energy Markets business to various entities wholly owned (directly or indirectly) by Brookfield LP. MidOcean Bidco will retain 100% of the shares in Origin which, following completion of the sale of the Origin Energy Markets business, will own only the Origin Integrated Gas business (**On-Sale Acquisition**).

The Scheme Acquisition and the On-Sale Acquisition are together referred to as the **Proposed Acquisition**.

- (b) MidOcean Energy also proposes to acquire minority interests in the Gorgon, Pluto, Ichthys and Queensland Curtis LNG (**QCLNG**) projects from the Tokyo Gas Group (**Tokyo Gas Transaction**) pursuant to a binding sale and purchase agreement signed on 7 October 2022 by MidOcean Energy and Tokyo Gas. The Tokyo Gas Transaction is not conditional upon, or related to, the Proposed Acquisition.

2.2. The parties to the Proposed Acquisition and Tokyo Gas Transaction

- (a) **MidOcean Energy, LLC, MidOcean Bidco and MidOcean Energy**

MidOcean Energy, LLC is an LNG company formed and managed by EIG Management Company LLC to build a diversified, resilient, cost and carbon competitive LNG portfolio.

MidOcean BidCo is currently a wholly-owned subsidiary of MidOcean Energy, LLC that was established to acquire 100% of the ordinary shares in Origin as part of the Proposed Acquisition.

MidOcean Energy is currently a wholly-owned subsidiary of MidOcean Energy, LLC that was established to acquire minority interests in the Gorgon, Pluto, Ichthys and QCLNG projects as part of the Tokyo Gas Transaction.

(b) **Brookfield LP**

Brookfield will invest in and control Brookfield LP via the Brookfield Global Transition Fund (**BGTF**), Brookfield Renewable Partners L.P., and certain other Brookfield-managed co-investors. The Brookfield-managed portion of Brookfield LP is expected to be 67.6% on completion of the Proposed Acquisition. The balance of Brookfield LP is expected to be owned by Buckland Investment Pte. Ltd. (which is managed by GIC Special Investments Private Limited, which is in turn wholly owned by GIC Private Limited) (22.5%) and Davis Investments Pte. Ltd. (which is indirectly wholly owned by Temasek Holdings (Private) Limited) (9.9%).

(c) **Origin**

Origin is an ASX listed integrated energy company. Origin has two core businesses, its Energy Markets Business responsible for electricity generation and electricity and gas retailing across Australia, and its Integrated Gas Business which includes a 27.5% interest in APLNG. It also operates, or has interests in, a range of other businesses in future energy, non-energy or energy adjacent sectors.

2.3. **The ACCC's review**

- (a) On 5 June 2023, Brookfield LP and MidOcean Bidco (the **Applicants**) applied to the ACCC for merger authorisation of the Proposed Acquisition under section 88(1) of the CCA.
- (b) On 6 June 2023, the ACCC commenced public consultation on the merger authorisation application. The ACCC undertook market inquiries and considered information provided by the parties to the Proposed Acquisition, industry participants and others.
- (c) Pursuant to section 90(7) of the CCA, the ACCC must not make a determination granting authorisation under section 88 of the CCA in relation to the Proposed Acquisition unless it is satisfied in all the circumstances that:
 - (i) the Proposed Acquisition would not have the effect or likely effect of substantially lessening competition; or
 - (ii) the Proposed Acquisition would result or be likely to result in a benefit to the public that would outweigh the detriment that would result or be likely to result from the Proposed Acquisition.

- (d) While the matter is contested by MidOcean BidCo, the ACCC has issued transparency letters on 19 July 2023 and 29 August 2023 indicating it has potential concerns regarding the ability of MidOcean to share competitively sensitive information between APLNG and QCLNG given the two projects' roles in the supply of gas to the domestic east coast gas market.

[This section 2 to be completed following ACCC review]

3. Commencement of this Undertaking

3.1. Commencement

This Undertaking comes into effect on the date that the following have occurred:

- (a) this Undertaking has been executed by MidOcean Energy;
- (b) this Undertaking so executed is accepted by the ACCC; and
- (c) the Control Date has occurred,

(the **Commencement Date**).

4. Cessation of Ongoing Obligation

4.1. Expiry

This Undertaking expires on the earliest to occur of:

- (a) MidOcean Energy ceasing to hold an interest in QCLNG and the ACCC confirms its consent to withdrawal on this basis in writing;
- (b) MidOcean Bidco ceasing to hold an interest in APLNG and the ACCC confirms its consent to withdrawal on this basis in writing;
- (c) QCLNG or APLNG ceases operating and the ACCC confirms its consent to withdrawal on this basis in writing;
- (d) the participants in the QCLNG project cease to jointly market gas to East Coast Gas Customers and the ACCC confirms its consent to withdrawal on this basis in writing; or
- (e) the ACCC otherwise consenting to MidOcean Energy withdrawing this Undertaking pursuant to clause 4.2.

4.2. Withdrawal

MidOcean Energy may request the withdrawal of this Undertaking pursuant to section 87B of the CCA at any time. This Undertaking is taken to be withdrawn on the date the ACCC consents in writing to that withdrawal.

4.3. Revocation

The ACCC may, at any time, revoke its acceptance of this Undertaking if the ACCC becomes aware that any information provided to it was incorrect, inaccurate or misleading.

4.4. Waiver

The ACCC may, at any time, waive any of the obligations contained in this Undertaking. Such a waiver must be express and in writing.

4.5. **Survival**

Unless and until this Undertaking expires or is withdrawn in accordance with clause 4, clauses 1, 2, 3, 4, 8, 12 and 13 survive completion of the obligations in clause 5.2.

5. **Waiver of rights to Walloons East Coast Gas Sensitive Information**

5.1. **Walloons East Coast Gas Sensitive Information**

For the purposes of this Undertaking, **Walloons East Coast Gas Sensitive Information** means each of the following:

- (a) marketing plans and strategies of Walloons to the extent it relates to East Coast Gas Customers;
- (b) the terms of each individual gas supply contract under which Walloons sells gas to an East Coast Gas Customer, and the terms being negotiated for proposed individual gas supply contracts of that nature; and
- (c) the price at which gas is sold by Walloons to an individual East Coast Gas Customer (but not weighted average prices calculated over a period of at least one month or aggregated revenue) or negotiations about prices for future gas supply of that nature,

provided that such information was not already in the possession of MidOcean other than as a result of a breach of this Undertaking or confidentiality provisions in the QCLNG Arrangements.

5.2. **Undertaking to Provide Waiver to QGC and Walloons**

MidOcean Energy undertakes that it will:

- (a) on or before the Commencement Date, provide a written waiver in favour of QGC and Walloons that for the term of this Undertaking it waives any rights it may have under the QCLNG Arrangements to obtain Walloons East Coast Gas Sensitive Information; and
- (b) on the date it is provided, provide the ACCC with a copy of the waiver provided in favour of QGC and Walloons in satisfaction of clause 5.2(a).

5.3. **Deletion and Destruction**

If MidOcean Energy becomes aware that, after the Commencement Date, it has received Walloons East Coast Gas Sensitive Information from QGC or Walloons (**Disclosed Sensitive Information**), it must:

- (a) notify QGC or Walloons (as applicable) of the Disclosed Sensitive Information MidOcean Energy has become aware of having received;
- (b) as soon as practicable return, delete or destroy all records of the Disclosed Sensitive Information in MidOcean Energy's control or possession (and where the information is stored in an automatic electronic backup system, impose reasonable information access restrictions to prevent such information being accessed by any employees of MidOcean Energy or its Related Bodies Corporate who have roles or responsibilities in connection with APLNG's marketing activities to East Coast Gas Customers); and

- (c) not use the Disclosed Sensitive Information for any purpose in connection with sales or marketing by or on behalf of APLNG to East Coast Gas Customers.

6. Self-reporting and ACCC requests for information

6.1. Self-Reporting

- (a) Within five Business Days of MidOcean Energy receiving Disclosed Sensitive Information, MidOcean Energy must provide the ACCC with written notice including:
 - (i) confirmation that it received Disclosed Sensitive Information;
 - (ii) details of the MidOcean Energy employee(s) that received Disclosed Sensitive Information; and
 - (iii) steps taken by MidOcean Energy to comply with its obligations under clause 5.3 to:
 - (A) return, delete or otherwise destroy the Disclosed Sensitive Information; and
 - (B) notify Walloons that it has returned, deleted or destroyed (as applicable) the Disclosed Sensitive Information.
- (b) For the avoidance of doubt, it will not be a breach of this Undertaking if:
 - (i) an employee of MidOcean Energy receives Walloons East Coast Gas Sensitive Information, provided that the MidOcean Energy complies with its obligations under clause 5.3 and 6.1(a);
 - (ii) MidOcean Energy receives payments from Walloons for gas supplied to Walloons where the price is calculated by, among other things, reference to weighted average prices or aggregated revenue received from East Coast Gas Customers for the period relevant to the payment (typically a month);
 - (iii) MidOcean Energy exercises a right to audit the calculation of payments from Walloons or receives an adjustment to its payments from Walloons for gas supplied to Walloons based on the outcome of such an audit, where the auditor (but not MidOcean Energy) has access to Walloons East Coast Gas Sensitive Information; or
 - (iv) MidOcean Energy receives a document in which any Walloons East Coast Gas Sensitive Information has been redacted or individual East Coast Gas Customer pricing has been aggregated.

6.2. ACCC requests for information

- (a) For the purpose of monitoring compliance with this Undertaking the ACCC may request MidOcean Energy furnish information or documents received by MidOcean Energy from QGC or Walloons in relation to its QCLNG interest to the ACCC in the time and in the form requested by the ACCC.
- (b) MidOcean Energy must, at its own expense, provide all such information and documents to the ACCC in the time and in the form requested by the

ACCC pursuant to clause 6.2(a), except for information or documents in respect of which MidOcean Energy has a claim of legal professional or other privilege.

7. Notification of key dates

- 7.1. MidOcean Energy must notify the ACCC in writing of:
- (a) the anticipated date of the Control Date, at least five Business Days before that date; and
 - (b) the occurrence of the Control Date, within one Business Day of that date.

8. Disclosure of this Undertaking

- 8.1. MidOcean Energy acknowledges that the ACCC may:
- (a) make this Undertaking publicly available;
 - (b) publish this Undertaking on its Public Section 87B Undertakings Register and Public Mergers Register; and
 - (c) from time to time publicly refer to this Undertaking.

9. No Derogation

- 9.1. This Undertaking does not prevent the ACCC from taking enforcement action at any time whether during or after the period of this Undertaking in respect of any breach by MidOcean Energy of any term of this Undertaking.
- 9.2. Nothing in this Undertaking is intended to restrict the right of the ACCC to take action under the CCA for penalties or other remedies in the event that MidOcean Energy does not fully implement and/or perform its obligations under this Undertaking or in any other event where the ACCC decides to take action under the CCA for penalties or other remedies.

10. Change of Control

- 10.1. In the event that a Change of Control is reasonably expected to occur (other than a Change of Control that would result in the occurrence of a termination event as set out in clause 4), MidOcean Energy must:
- (a) notify the ACCC of this expectation as soon as practicable; and
 - (b) only implement a Change of Control to another person or entity if that person or entity has given a section 87B undertaking to the ACCC that requires it to comply with the same obligations as are imposed on MidOcean Energy pursuant to this Undertaking, or on terms that are otherwise acceptable to the ACCC, unless the ACCC has notified MidOcean Energy in writing that a section 87B undertaking under this clause is not required.

11. Costs

- 11.1. MidOcean Energy will pay its own costs incurred in relation to this Undertaking.

12. Notices

Giving Notices

- 12.1. Any notice or communication to the ACCC pursuant to this Undertaking must be sent to:

Email address: mergers@acc.gov.au
Attention: Executive General Manager
Merger and Authorisation Review Division

With a copy sent to: mergersru@acc.gov.au
Attention: Director, Remedies Unit
Coordination and Strategy Branch
Merger and Authorisation Review Division

- 12.2. Any notice or communication to MidOcean Energy pursuant to this Undertaking must be sent to:

Name: **Confidential to MidOcean Energy**

Address: **Confidential to MidOcean Energy**

Email Address: **Confidential to MidOcean Energy**

Phone number: **Confidential to MidOcean Energy**

Attention: **Confidential to MidOcean Energy**

With a copy sent to

Name: **Confidential to MidOcean Energy**

Address: **Confidential to MidOcean Energy**

Email Address: **Confidential to MidOcean Energy**

Phone number: **Confidential to MidOcean Energy**

Attention: **Confidential to MidOcean Energy**

- 12.3. If sent by post, notices are taken to be received three Business Days after posting (or seven Business Days after posting if sent to or from a place outside Australia).
- 12.4. If sent by email, notices are taken to be received at the time shown in the email as the time the email was sent.

Change of contact details

- 12.5. MidOcean Energy must notify the ACCC of a change to its contact details within three Business Days.
- 12.6. Any notice or communication will be sent to the most recently advised contact details and subject to clauses 12.3 and 12.4, will be taken to be received.

13. Defined terms and interpretation

Definitions in the Dictionary

13.1. A term or expression starting with a capital letter:

- (a) which is defined in the Dictionary in Part 1 of Schedule 1 (Dictionary), has the meaning given to it in the Dictionary; or
- (b) which is defined in the Corporations Act, but is not defined in the Dictionary, has the meaning given to it in the Corporations Act.

Interpretation

13.2. Part 2 of Schedule 1 sets out rules of interpretation for this Undertaking.

Executed as an Undertaking

Executed by MidOcean Energy Holdings Pty. Ltd. (ACN 662 741 415) pursuant to section 127(1) of the *Corporations Act 2001* by:

Signature of director	Signature of a director/company secretary (delete as appropriate, or entire column if sole director company)
Name of director (print)	Name of director/company secretary (print)
Date	Date

Accepted by the Australian Competition and Consumer Commission pursuant to section 87B of the *Competition and Consumer Act 2010* (Cth) on:

Date

and signed on behalf of the Commission:

Chair

Date

Schedule 1 – Dictionary and interpretation

1. Dictionary

ACCC means the Australian Competition and Consumer Commission.

APLNG means Australia Pacific LNG project.

BGTF means the Brookfield Global Transition Fund.

Business Day means a day other than a Saturday or Sunday on which banks are open for business generally in the Australian Capital Territory.

CCA means the *Competition and Consumer Act 2010* (Cth).

Change of Control means:

- (a) the assignment or other transfer of the legal or beneficial ownership of some or all of MidOcean Energy's interest in QCLNG to any other person or entity that may impact compliance with this Undertaking in its entirety; or
- (b) the sale or transfer of any assets necessary, or which may be necessary, to enable MidOcean Energy to continue to comply with this Undertaking in its entirety.

Commencement Date has the meaning given to it in clause 3.1 of this Undertaking.

Control Date means the later of the date of completion of the Proposed Acquisition, or the date of completion of the Tokyo Gas Transaction.

Corporations Act means the *Corporations Act 2001* (Cth).

Disclosed Sensitive Information has the meaning given in clause 5.3 of this Undertaking.

East Coast Gas Customer means a purchaser or potential purchaser of natural gas (which has not undergone liquefaction to produce LNG) at a delivery point connected to the pipeline network in Queensland, New South Wales, Victoria, Tasmania, South Australia or the Australian Capital Territory or Northern Territory.

MidOcean BidCo means MidOcean Reef Bidco Pty Ltd.

MidOcean Energy means MidOcean Energy Holdings Pty. Ltd.

On-Sale Acquisition has the meaning given to it in clause 2.1 of this Undertaking.

Origin Energy Markets means the parts of Origin that do not include the Origin Integrated Business and that will not be owned by MidOcean BidCo following the Proposed Acquisition.

Origin Integrated Gas Business means the upstream gas assets of Origin that will be acquired by MidOcean BidCo pursuant to the Proposed Acquisition, and include the Origin interests in APLNG.

Origin means Origin Energy Limited and its Related Bodies Corporate.

Proposed Acquisition has the meaning given to it in clause 2.1 of this Undertaking.

Public Mergers Register means the ACCC's public register of merger clearances, available at www.accc.gov.au.

Public Section 87B Undertakings Register means the ACCC's public register of section 87B undertakings, available at www.accc.gov.au.

QCLNG means the Queensland Curtis LNG project.

QGC means QGC Pty Limited (currently a wholly owned subsidiary of Shell), the operator of the QCLNG.

QCLNG Arrangements means:

- (a) **Confidential to MidOcean Energy;**
- (b) gas sales agreements under which participants in QCLNG sell gas to Walloons; and
- (c) joint operating agreements under which participants in QCLNG own petroleum tenements and produce gas for liquefaction and export and/or sales to East Coast Gas Customers.

Related Bodies Corporate has the meaning given to it by section 50 of the *Corporations Act 2001* (Cth).

Scheme Acquisition has the meaning given to it in clause 2.1 of this Undertaking.

Tokyo Gas Transaction has the meaning given to it in clause 2.1 of this Undertaking.

Undertaking is a reference to all provisions of this document, including its schedules and as varied from time to time under section 87B of the CCA.

Walloons means Walloons Coal Seam Gas Pty Ltd, 75% owned by QGC.

Walloons East Coast Gas Sensitive Information has the meaning given to it in clause 5.1 of this Undertaking.

2. Interpretation

- 2.1 In the interpretation of this Undertaking, the following provisions apply unless the context otherwise requires:
- (a) a reference to this Undertaking includes all of the provisions of this document including its schedules;
 - (b) headings are inserted for convenience only and do not affect the interpretation of this Undertaking;
 - (c) if the day on which any act, matter or thing is to be done under this Undertaking is not a Business Day, the act, matter or thing must be done on the next Business Day;
 - (d) a reference in this Undertaking to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;

- (e) a reference in this Undertaking to any company includes its Related Bodies Corporate;
- (f) a reference in this Undertaking to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced;
- (g) a reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Undertaking;
- (h) an expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency;
- (i) where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (j) a word which denotes the singular also denotes the plural, a word which denotes the plural also denotes the singular, and a reference to any gender also denotes the other genders;
- (k) a reference to the words 'such as', 'including', 'particularly' and similar expressions is to be construed without limitation;
- (l) a construction that would promote the purpose - or object - underlying the Undertaking (whether expressly stated or not) will be preferred to a construction that would not promote that purpose or object;
- (m) material not forming part of this Undertaking may be considered to:
 - (i) confirm the meaning of a clause is the ordinary meaning conveyed by the text of the clause, taking into account its context in the Undertaking and the competition concerns intended to be addressed by the Undertaking and the clause in question; or
 - (ii) determine the meaning of the clause when the ordinary meaning conveyed by the text of the clause, taking into account its context in the Undertaking and the purpose or object underlying the Undertaking, leads to a result that does not promote the purpose or object underlying the Undertaking;
- (n) in determining whether consideration should be given to any material in accordance with paragraph (m), or in considering any weight to be given to any such material, regard must be had, in addition to any other relevant matters, to the:
 - (i) effect that reliance on the ordinary meaning conveyed by the text of the clause would, have (taking into account its context in the Undertaking and whether that meaning promotes the purpose or object of the Undertaking); and
 - (ii) need to ensure that the result of the Undertaking is to completely address any ACCC competition concerns;
- (o) the ACCC may authorise the ACCC Mergers Review Committee, a member of the ACCC or a member of the ACCC staff, to exercise a decision making function under this Undertaking on its behalf and that authorisation may be subject to any conditions which the ACCC may impose;

- (p) in performing its obligations under this Undertaking, MidOcean Energy will do everything reasonably within its power to ensure that its performance of those obligations is done in a manner which is consistent with promoting the purpose and object of this Undertaking;
- (q) a reference to:
 - (i) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;
 - (ii) a party includes its successors and permitted assigns; and
 - (iii) a monetary amount is in Australian dollars.