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**Submission regarding the Western Australian and Northern Territory
LNG Producers application for revocation of authorisation AA1000396
and substitution of AA1000620**

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1 Introduction

The Australian Competition and Consumer Commission (the **ACCC**) has received an application for re-authorisation (revocation of authorisation AA1000396 and substitution of AA1000620) from Western Australian and Northern Territory liquefied natural gas (**LNG**) project operators (the **Application**). The applicants comprise Chevron Australia Pty Ltd (**Chevron**), Inpex Operations Australia Pty Ltd (**INPEX**), Shell Australia Pty Ltd (**Shell**) and Woodside Energy Limited (**Woodside**) (together, the **Applicants**). The ACCC has invited comment regarding the Application from interested parties. In the Application the Applicants request an effective extension of the protection afforded to them from the operation of certain provisions of the Competition and Consumer Act 2010 (Cth) (the **Act**) by Authorisation AA1000396, to facilitate the coordination and scheduling of planned maintenance for the:

- Gorgon Project in Western Australia;
- Wheatstone Project in Western Australia;
- Northwest Shelf Project in Western Australia;
- Pluto Project in Western Australia;
- Prelude offshore floating facility in Western Australia; and
- Ichthys Project in the Northern Territory.

2 Energy Matrix – an Interested Party

This submission is being lodged by Energy Matrix Group Pty Limited (**Energy Matrix**). Energy Matrix started life as Project Consultancy Services Pty Limited offering strategic and commercial advice and support services to energy, mining and industrial companies and to governments. In 2007 the members of Project Consultancy Services Pty Limited created Gas Trading Australia Pty (**gasTrading**) to:

- provide gas supply management services;
- develop the gasTrading Spot Market™; and
- provide bespoke gas transport services.

As of 1 July 2022, gasTrading manages the gas supply for 34 sites, representing 350 TJ per day of gas consumption or supply. gasTrading has also established the gasTrading Spot Market™ as an integral part of the Western Australian gas market, has developed the “Self-Contracting User Model” for servicing Western Australian Commercial and Industrial gas users, and provides bespoke gas transport services to twenty one gas consumer sites.

In 2013 and 2016 the members of Project Consultancy Services Pty Limited established, respectively, Agora Gas Pty Limited (**Agora Gas**) and Agora Retail Pty Limited (**Agora Retail**). These companies:

- take equity positions in the gas market, buying and selling short, medium and long term gas;
- underwrite liquidity in the gasTrading Spot Market™; and
- retail gas to commercial and industrial gas users in Western Australia and Victoria.

Since January 2022 Agora Gas has traded at an annual equivalent rate of 13 PJ per annum and Agora Retail will deliver approximately 1.5 PJ in 2022 to commercial and industrial customers in Western Australia and Victoria.



The consulting arm of Energy Matrix (**PCS**) supported the Northern Territory's Department of the Chief Minister in the development of the Northern Gas Pipeline and acted as Lead Negotiator in the marketing and sale of Northern Territory Power and Water Corporation gas to eastern Australian gas buyers. PCS continues to work with clients in the Northern Territory to develop gas supply projects and to source gas for new mining, industrial and commercial projects.

As of 1 July 2017, the name of the company was changed to Energy Matrix Group Pty Limited, the members of gasTrading, Agora Gas and Agora Retail sold their shares in each of the companies to Energy Matrix and a new company, a new "Project Consultancy Services Pty Limited" (**PCS**), was created by Energy Matrix to continue the group's consulting business.

3 Public Benefit

The major thrust of the Application is that, while the proposed conduct may impede competition in the LNG Plant services sector, the rationale for granting AA1000396 continues to be valid and is in fact enhanced by developments in the sector over the last four and half years.

The Applicants further suggest that the replacement authorisation be on substantially the same terms as AA1000396 but immediately propose that the critical condition contained in AA1000396 (that the maintenance plans of the Applicants be made public - the **AA1000396 Condition**) not be included in the replacement authorisation and that the term of the replacement authorisation be double the term of AA1000396 (10 year term as opposed to 5). Energy Matrix has a fundamental concern with the removal of the AA1000396 Condition and has reservations regarding the proposal for a 10 year term.

Energy Matrix concurs with the Applicants argument that the replacement of authorisation AA1000396 with a replacement authorisation is in the public interest.

In its invitation the ACCC comment on the operation submissions on the important market comments on the operation submission on the

However, Energy Matrix does not consider the proposed new arrangement is "substantially on the same terms" as AA1000396 and submits that proposed changes to the term of the arrangement should not be accepted.

Also notes are some market Applicants appear to have which are material to this matters were raised in, and on the ACCC's draft decision became AA1000396 (the **Draft Decision**) which also need to be noted and refreshed.

requested Interested Parties to of AA1000396 to date and invite Application. Set out below are some considerations/parameters, our of AA1000396 to date and our proposed replacement authorisation.

events and developments that the omitted from the Application and request for authorisation. A number of regarding, Energy Matrix's submission regarding the application for what

General Market Considerations

Status of the Australian Energy Market Operator (AEMO)

In the Draft Decision, the ACCC relied on advice provided by AEMO, that "there are currently no gas trading hubs or Short Term Trading Markets (**STTM**) operating in Western Australia or in the Northern Territory". The ACCC noted advice from AEMO that gas trading hubs or STTM may be developed in Western Australia in the next five years. On the basis of that advice the ACCC concluded that there was no market for gas in Western Australia.

Energy Matrix contested that conclusion and acknowledged the preparedness of the ACCC to properly review its draft position. Notable, in its Draft Decision, the ACCC opined that, had been a gas supply Hub or STTM in

Western Australia it would have been more inclined to require the release of shared information to the market (as it ultimately did in the AA1000396 Condition).

This history raises two very important issues, namely:

- is a market only a market if it is operated by AEMO; and
- who, exactly, is AEMO?

In regard to the second issue, Energy Matrix repeats its previous submission that AEMO is a Proprietary Limited company operated for its members and it is not responsible for the development of energy markets or energy market policy generally (even if that has become a policy default response). AEMO's role is to enhance and improve the operation of energy markets placed under its management. There is no suggestion that AEMO has been given an exclusive right to create or promote markets. Gas trading hubs and STTMs, as they have emerged in Australia, are products developed, offered and uniquely controlled by AEMO. AEMO is able to develop these products because of its advantaged position, relative to the rest of the market. AEMO is able to offer these products because it alone has legislative authority to force particular market behaviours and outcomes.

Energy Matrix continues to submit that there is no basis for the ACCC favouring markets created and operated by AEMO over other markets and that any condition that that should reasonably be applied to an authorisation under Section 91c(1) of the Act, be applied irrespective of who operates the market.

Energy Matrix Group Spot and Short Duration Market Activity

In 2018 Energy Matrix advised that the rules governing the gasTrading Spot Market™ and extensive data on trading volumes and prices is publicly available and can be found at:

<http://www.gastrading.com.au/spot-market/historical-prices-and-volume>

In that submission Energy volumes of gas trade in the traded in the gasTrading Energy Matrix noted that the volume of gas traded at volume of gas traded at Market traded every day in

There is no question that a market for trading natural gas exists in Western Australia, even though that market is not operated by AEMO.

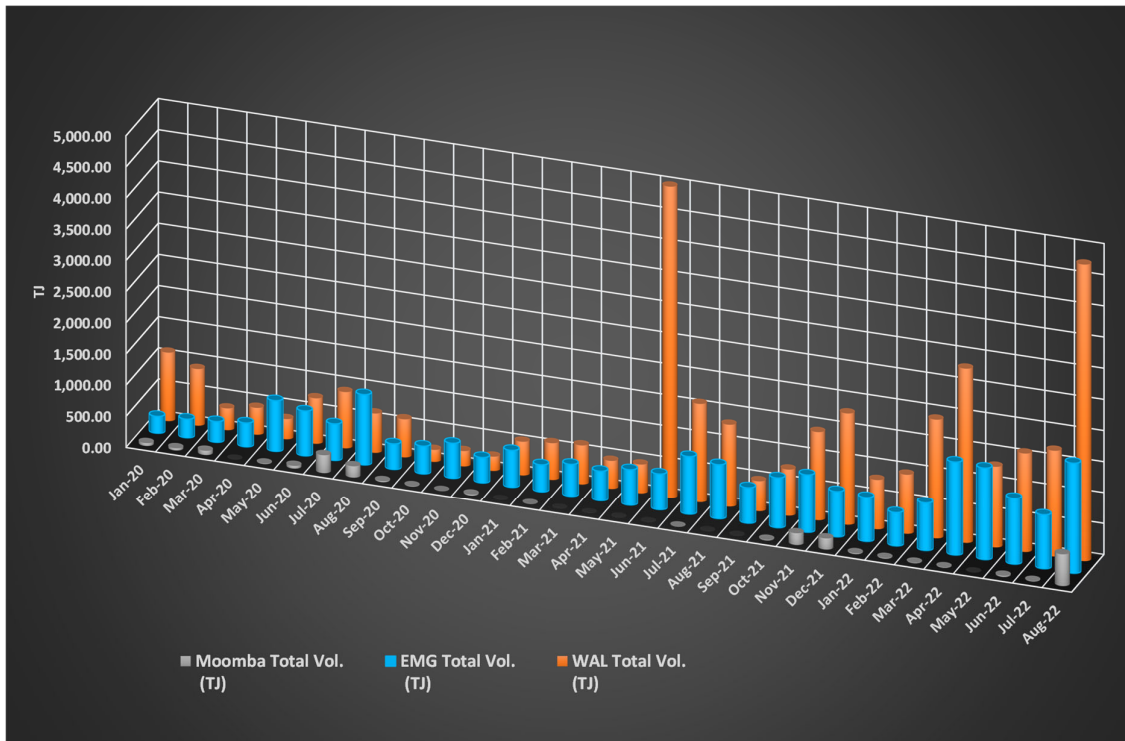
Matrix provided a comparison of the AEMO Gas Hub and the volume of gas Spot Market™ in Western Australia. the gasTrading Spot Market™ traded half Wallumbilla and traded double the Moomba [a previous "reversal" error has AEMO markets, the gasTrading Spot December 2017.

Figure 1 updates the previous comparison. In the period covered by Figure 1 Energy Matrix companies traded (On Market and Off Market Spot and, Short Term Firm products) every day (as they have done every day for several years) and in 2022 (year to 31 August) Energy Matrix companies traded half the volume of gas traded at Wallumbilla and its trading volumes dwarfed those traded at Moomba.

Figure 1 reveals that the major difference between Energy Matrix company trading volumes and trading at the Wallumbilla Hub is the response of the market to high spot prices for LNG exports, the occasional flood of LNG feedstock into the Wallumbilla Hub and the impact (especially in Quarter 2 2022) of AEMO market intervention.



Figure 1 Monthly Traded Volume (Wallumbilla, Moomba & Energy Matrix)



The fact is, a vibrant spot, short term and firm gas trading market already operates in Western Australia. One of the most notable of these markets is the gasTrading Spot Market™ and the short term trading activity of Agora Gas. gasTrading has operated its spot market since 2008 and is known to both AEMO and to the ACCC.

The interface between LNG Markets/Exports and Domestic Gas Markets

In the last twelve months, one of the most important and controversial developments in the Western Australian gas market has been the approval by the Western Australian Government, and confirmation by the companies involved, that the Western Australian Government has executed agreements which will result in:

- the development of the Waitsia Gas Project Stage 2;
- the development of a 250 TJ per day domestic gas processing facility; and
- the Waitsia Joint Venture filling available capacity at the North West Shelf LNG facility; and
- approval to export 7.5 million tonnes of gas as LNG [from this source] until the end of 2028.

This arrangement will, for the first time, create a direct link between domestic Western Australian gas markets and LNG exports. Other than the statement that “the project will deliver large volumes of gas into the WA market in support of new energy-intensive industry development in the State” there is no indication of the arrangements which will apply, if any, after 2028. This arrangement clearly erodes the Applicant’s proposition that there is no link in Western Australia between LNG exports and domestic gas markets.



Synergy Submission Regarding Publication of Data on the Gas Bulletin Board (the WA GBB)

In submissions regarding the Draft Decision, Synergy noted that the Applicants have obligations to publish details of planned maintenance on the WA GBB. We note that these obligations apply only to plant dedicated to domestic gas supply and that the timeline for publication can be expected to be very different to that which needs to apply to LNG plant maintenance plans. Relying solely on the WA GBB disclosure would result in an outcome where the Applicants will be privy to shared maintenance planning information well in advance of that information becoming available to other market participants via the WA GBB. The level of detail in the information exchanges and that published on the WA GBB may also be very different.

It is just as important, to avoid information asymmetry, to ensure that information is shared with all parties at the same time as it is to ensure the information is shared.

All Western Australian Applicants are Participants in the Western Australian Wholesale Gas Market

For the sake of clarity, we note that, as a rule, virtually all of the Applicants are participants in the Western Australian gas market (both short and firm). Without a condition equivalent to the AA1000396 Condition in any replacement authorisation, the Applicants will be privy to shared information which is not shared with other market participants.

Experience with AA1000396

The timely provision of information in accordance with the AA1000396 Condition was instrumental in Energy Matrix's management of the recent one month planned maintenance of the Wheatstone gas plant. (That one month planned program became a two month program). The Wheatstone plant represents 20% of daily Western Australian gas production.

Because of the AA1000396 Condition Energy Matrix was able, starting in October 2021, to forward sell gas into the period of the planned April outage and to start accumulating "stored gas" to make up the production shortfall during the outage. The companies accumulated 1.6 PJ of gas leading up to the April shutdown.

This stored gas was instrumental in ensuring the continuity to the market during the outage and underwrote the stability in prices during the episode. That the outage went on much longer than planned, and was then overlapped and followed by other significant unplanned plant outages reveals how important this advance information, and the efficient operation of spot and short term gas trading markets, can be.

Northern Territory Market

In its submission regarding the Draft Decision, Energy Matrix advised the ACCC that it had given undertakings to major interests in the Northern Territory and Queensland that a gasTrading Spot Market™ - NT will be in place and ready for operation before Jemena's Northern Gas Pipeline becomes operational. Operational issues with the Northern Gas Pipeline, anti-competitive behaviour in the Northern Territory market that has been sanctioned by the ACCC and the Australian Energy Regulator and the current crisis in Northern Territory gas supply have made this impossible to date.

However, with the development of the Beetaloo Basin, and other Northern Territory gas supply projects, Energy Matrix is still working to develop a trading market in the Northern Territory. Through its consulting arm, PCS, Energy Matrix is intimately involved in this market and in a number of market developments. Energy Matrix submits that any condition (along the lines of the AA1000396 Condition) applied to Western Australian Applicants, also be applied in the Northern Territory. To do otherwise would be to reinforce the apparent acceptance by regulators that anti-competitive behaviour is acceptable in the Northern Territory.

4 The AA1000396 Condition and the Replacement Authorisation

The Applicants propose that any replacement authorisation should not include a condition equivalent to the AA1000396 Condition. The proposition put forward by the Applicants appears to be that this condition is not necessary in a replacement authorisation because the circumstances giving rise to its inclusion in AA1000396, that is the expectation that a gas trading hub or Short Term Trading Market would develop and commence in Western Australia giving rise to a problem of information asymmetry, has not eventuated.

The expectation that a gas trading hub or Short Term Trading Market would develop and commence in Western Australia and the implications of such a development were canvassed in the Draft Decision and revisited in the ACCC's Final Decision on AA1000396. However, to assert that the inclusion of the AA1000396 Condition in AA1000396 was based on this expectation is entirely spurious. The ACCC was very clear on the reasons for including the AA1000396 Condition in AA1000396. Those reasons include the following.

"Given the existence of gas trading markets in Western Australia, and the likely commencement of a gas trading market in the Northern Territory, the ACCC has considered the likelihood of the applicants participating in domestic gas market trading. *(Final Decision para 91)*

In light of these points, the ACCC considers that, within a five year authorisation period, it is likely that the applicants will participate in domestic gas trading markets during the period of authorisation, **with or without the establishment of a formal gas trading hub or STTM in that time** *[Energy Matrix emphasis]. (Final Decision para 93)*

Taking all these facts together, the ACCC considers that the proposed conduct gives rise to information asymmetry problems, which are likely to generate anticompetitive detriments. *(Final Decision para 94)*

More specifically, gas markets who information about be at a disadvantage participants in domestic trade without the LNG facility downtime will and their ability to efficiently manage their gas positions will be reduced. This could impose substantial additional costs on these businesses and expose them to significant and avoidable risk. Over time, this risk may undermine confidence in domestic gas markets because market participants are unsure whether they have the same market sensitive information as other participants. *(Final Decision para 95)*

At the extreme, a lack of confidence in these markets will reduce participation and liquidity, further reducing each participant's ability to efficiently manage their gas positions. *(Final Decision para 96)*"

The reasons for the inclusion of the AA1000396 Condition in AA1000396 remain just as relevant, if not more relevant, in 2022 to the replacement authorisation as they did in 2018 to AA1000396. Energy Matrix, therefore, strongly submits that:

- there is a vibrant market for trading gas in Western Australia;





- it can reasonably be expected that a market for trading gas in the Northern Territory will develop in the near to medium term;
- most of the Applicants are participants in the Western Australian wholesale gas market;
- the deletion of a condition equivalent to the AA1000396 Condition in any preplacement authorisation will create an untenable information asymmetry in these markets;
- that information asymmetry will damage these markets; and
- the proposal not to include a condition equivalent to the AA1000396 Condition in any replacement authorisation must be rejected.

5 Duration of Replacement Authorisation

In response to the Draft Decision, Energy Matrix submitted that the ACCC reconsider its decision not to grant the authorisation for ten years as then proposed by the applicants. If the replacement authorisation contains a condition equivalent to the AA1000396 Condition Energy Matrix would (on balance) take the same position, but not without reservation. These markets are moving and changing very quickly and there is a prima facie case for a shorter term authorisation. However, this decision needs to be balanced with the transaction cost of requiring more regular applications.

Energy Matrix submits that, if the ACCC determines to require the publication of the information shared by the Applicants in Western Australia and the Northern Territory (equivalent to the AA100396 Condition), it issue the replacement authorisation for ten years.

Yours Sincerely

Mike Lauer
Director

