Government of **Western Australia**
Department of **Mines and Petroleum**

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Dear Dr Loraine

INQUIRY INTO THE ECONOMIC IMPLICATIONS OF FLOATING LNG – REQUEST FOR FURTHER INFORMATION

I refer to your letter of 19 February 2014 requesting further information in addition to the evidence provided at the hearing of 19 February.

Attached are the Department of Mines and Petroleum's responses to the seven questions in your letter.

Yours sincerely

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DIRECTOR GENERAL

27 February 2014

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INQUIRY INTO THE ECONOMIC IMPLICATIONS OF FLOATING LNG – REQUEST FOR FURTHER INFORMATION - DEPARTMENT OF MINES AND PETROLEUM'S RESPONSES.

1. ***While there is only a relatively few resource projects in the Northern Territory, the government there has identified and pursued numerous development and local content opportunities. In WA, we have many resource projects, and one would assume many more opportunities. How does WA's approach compare with that of the NT, which seems to be so successful? What lessons can WA learn from that approach?***

   Given the State development and facilitation aspects of this question, it is best addressed by the Department of State Development.

2. ***Under the current types of agreements for retention leases, could a company such as Woodside or Shell surrender a lease if it was deemed by them not to be commercially viable?***

   Yes.

   What, from a State perspective, is done to scrutinise a company's report's on the commercial viability of a field?

   If the title in question is a Commonwealth title, then NOPTA as the title administrator advising the WA Joint Authority has the responsibility under the legislation to scrutinise the company's reports on the commercial viability of a field.

   If the title is a State title, then the Resources Branch of DMP's Petroleum Division would scrutinise the company's reports on the commercial viability of the field. This process could extend to requesting presentations from the company to justify its position.

   The conditions of a lease are deemed to contain a condition that the company would have to re-evaluate the commercial viability of the lease if requested by the Minister. This re-evaluation excludes the drilling of wells and would have to be provided in writing to the Minister.

   If conditions of the lease have been fulfilled, the Minister could not unreasonably refuse the consent to surrender.

   If the conditions of a lease had not been fulfilled, then cancellation of the title would be an option. Cancellation is a stigma a company would endeavour to avoid given the reputational and financial implications.

3. ***In the Department's view, could the Prelude fields have been developed through the Inpex fields?***

   Hypothetically, yes, and result in more gas to Darwin. Gas quality and quantity plus development timelines for the two companies would also play a role, together with the requirements of any supply contract signed. All hypothetical, but this would be a commercial matter driven by beneficial mutual interest between Shell and Inpex/Total.

   Such arrangements would require enhanced cooperation between resource companies.
   Yes.

   What advantages do you see for the State and resource companies for an improved level of cooperation in resource development in the State?
   It could lead to the development of stranded fields and the conversion of more retention leases to production licences. Offshore cooperation could assist third party access at key onshore processing facilities to enhance gas supply and price competition.

4. ***If a company has determined that onshore processing is not a viable option for the development of an offshore gas field, would the State consider not renewing its retention lease so that it could be offered to other resource companies.***

   This question implies that the retention lease is a state retention lease and not a title in the Commonwealth WA Offshore area.

   The company would have to demonstrate that onshore processing is not commercially viable either currently or within the next 15 years. If the State took the contrary view, then under the legislation it could refuse renewal but would have to allow the company 12 months in which to make an application for a production licence. The company could of course argue that offshore processing was commercially viable and cite sovereign risk.

5. ***How is it determined which projects will be subject to a State agreement? For example, we understand there is no State agreement for the Pluto project. If State Agreements offer advantages to both the state and the project proponent, why are they not developed for all projects?***

   This question should be directed to the Department of State Development as the government agency responsible for state agreements.

6. ***The Chamber of Minerals and Energy of WA has advised the Committee of a 'long awaited bi-lateral agreement (between the state and federal governments) to enable environmental approvals to be undertaken by state agencies'. Could you please provide details of this agreement and its current status?***

The *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) is the Australian Government's central piece of environmental legislation, and provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places. Given that that various States and Territories within Australia also have mature environmental protection legislation, the EPBC Act has the ability for the important national and international matters (called matters of national environmental significance) to be dealt with through the State and Territory processes.

The process to 'accredit' the State and Territory environmental processes to deal with matters of national environmental significance is prescriptive and set out within the EPBC Act. The form of the accreditation is termed a 'bilateral agreement'.

Bilateral agreements can reduce duplication of environmental assessment and approval processes between the Commonwealth and states/territories. They allow the Commonwealth to 'accredit' particular state/territory assessment and approval processes. The Western Australian Government already has an assessment bilateral for formal assessments under Part IV of the Environmental Protection Act 1986 [see http://www.epa.wa.gov.au/AbouttheEPA/bilaterals/Pages/default.aspx]

In December 2013 the Western Australian Government signed a memorandum of understanding with the Commonwealth Government to negotiate an expansion of the bilateral agreement with the intent to accredit a wider range of assessment and approval processes [see http://www.environment.gov.au/topics/about-us/legislation/environment-protection-and-biodiversity-conservation-act-1999/one-stop].

The negotiations between the Western Australian Government and the Commonwealth Government are led by the Department of Premier and Cabinet, and are continuing. The Departments of Mines and Petroleum, Environment Regulation, State Development and the Office of the Environmental Protection Authority are contributing to the working group coordinated by the Department of Premier and Cabinet.

7. ***The Offshore Petroleum and Greenhouse Gas Storage Act 2006 (Cth) establishes the Commonwealth-WA Offshore Petroleum Joint Authority. Decision-making arrangements for the Joint Authorities established under the Act are contained in the Guidelines for Offshore Petroleum Joint Authority Decision-making Procedures. In August 2013, a variation to the Commonwealth leases for Woodside's Browse gas fields was approved by the then Commonwealth Minister for Resources and Energy, Hon Gary Gray, MP. This variation waived the requirement that the gas be processed at the Kimberley LNG precinct. This appears to have been a unilateral decision by the Minister.***

   Please advise whether then federal government consulted with the State in accordance with the decision making process outlined in the guidelines? If so, please provide details of this consideration. If not, please advise if this is the first time that such a unilateral decision has been made?

   Woodside (on behalf of the Browse Joint Venturers) requested a variation of the work program for the two State and five Commonwealth Retention Leases over the Browse Gas fields, on 7 June 2013. In accordance with the *Guidelines for Offshore Petroleum Joint Authority Decision-making Procedures* and the established working arrangements between the delegates of the Joint Authority members and the National Offshore Petroleum Titles Administrator (NOPTA), DMP Petroleum Division received copies of the applications on the same day. On 26 June 2013, NOPTA advised WA Delegate (Executive Director, Petroleum Division) of its assessment of the request in regard to the Commonwealth leases. The Executive Director sought clarification particularly in regard to the commerciality of the LNG project and resource estimates from NOPTA. The DMP Petroleum Division, independently assessing the request for variation for the State titles had sought similar clarifications from Woodside. On 26 July, the Western Australia Joint Authority member advised the Commonwealth Joint Authority member that he was unable to confirm his position due to lack of clarity of how the proposed work program would provide additional understanding of the reserves estimates or life of field resource management .

   On 2 August 2013, the Executive Director, Petroleum Division was advised by NOPTA that the Commonwealth Minister had made his decision and in accordance with the *Offshore Petroleum Joint Authority Decision-making Procedures* Minister Gray provided written notification to the State Minister for Mines and Petroleum, Hon Bill Marmion, with the reasons for his decision. The variations to the Commonwealth leases were approved on the same day. While all decision making processes were in accordance with the OPGGSA 2006 the unilateral decision by the Commonwealth Joint Authority member is unprecedented.