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Independent Review of the EPBC Act
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Dear Dr Hawke

EPBC ACT REVIEW

Thank you for the opportunity to comment on the Review of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

About Woodside

Woodside is Australia's largest publicly traded oil and gas exploration and production company and one of the nation's most successful explorers, developers and producers of hydrocarbons. Woodside is the operator of the North West Shelf, Australia's largest resource development; oil producing facilities in the Timor Sea and near Exmouth, and operator of the Otway Gas Project in Victoria.

At the end of 2010, Woodside will complete construction of its \$12 billion Pluto LNG Project near Karratha – Australia's second biggest resources project. The proposed Sunrise LNG development could receive a final investment decision by the end of 2010, while the Browse LNG development in northern Western Australia is working to a final investment decision by the end of 2011.

Woodside's goal is to be a global leader in LNG production by 2015, when global demand for LNG is expected to exceed supply. Its focus is on achieving this primarily through development of Australian gas assets.

Environmental approvals for petroleum activities in Australia

We refer the EPBC Act Independent Review to the recent draft research report of the Productivity Commission titled "*Review of the Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector*" (see in particular chapter 6 "Environment and Heritage") and our submission to the 'Issues Paper' to assist the preparation of that draft research report dated 29 August 2008. Those papers include discussion about unnecessary duplication in project approvals and recognise existing efforts to streamline assessment and approval processes. That discussion is relevant to this Review of the EPBC Act given there is significant potential for duplication arising from the implementation of the EPBC Act and State based petroleum, environmental and heritage legislation.

While environmental approvals are often the focus of concern by industry because of their potential for duplication, schedule risk and complexity, it is our experience that these can often be managed, albeit with an application of resource effort which would not be viable for smaller companies.

To improve on that, Woodside suggests the EPBC Act could be implemented to endorse particular petroleum related activities and avoid unnecessary duplication. In particular, the EPBC Act could recognise Environment Plans under petroleum legislation as an appropriate mechanism for assessment and approval of petroleum exploration and production, pipeline construction and geosequestration activities.

Further, the Review may wish to consider the potential for inconsistent application of indigenous heritage laws under the EPBC Act (through national heritage) and specific State and Commonwealth legislation. In particular, it is possible for a proposed activity to receive approval under State environmental and heritage legislation and then be subject to the later application for protection of that area under Commonwealth heritage laws. The application for protection may be made using both ordinary listing and emergency powers under either or both EPBC Act and the Aboriginal and Torres Strait Islander Heritage Protection Act. It is possible for a decision under those provisions to be inconsistent with the activity that has been otherwise approved.

Woodside supports flexible mechanisms available under EPBC Act

The EPBC Act provides a flexible legislative framework for the regulation of environmental issues so far as they relate to the Commonwealth's jurisdiction. Woodside has recent experience with the flexibility provided under the EPBC Act to the assessment and implementation of our proposed activities through:

- a Conservation Agreement for the benefit of the Dampier Archipelago (including Burrup Peninsula) National Heritage Place associated with the implementation of the Pluto LNG Project; and
- a Strategic Assessment being undertaken for an LNG precinct in the Kimberley region of Western Australia.

Woodside supports the continued use of flexible mechanisms under the EPBC Act provided those mechanisms result in clarity of process, timeliness for delivery of milestones and minimal duplication with other regulatory approvals.

Woodside does not support a greenhouse trigger under the EPBC Act

Woodside agrees with the Commonwealth government that climate change is a global problem requiring a global solution. Liquefied natural gas (LNG) is a key part of that global solution. LNG is a unique source of energy; more emissions-efficient than all other fossil fuels and able to contribute directly to the global reduction of greenhouse gas emissions. We refer the Review to our submission to the Commonwealth Government's Green Paper which provides further detail in that regard.

The Commonwealth government is seeking to address the issue of climate change through the implementation of the Carbon Pollution Reduction Scheme. The release of the government's White Paper this week confirms the government's aim to have that Scheme commence on 1 July 2010. While the White Paper does not specifically mention amending the EPBC Act to include a greenhouse trigger, it appears to remain a policy commitment of the current government.

The Scheme must be the sole mechanism to regulate greenhouse gas emissions and should override all Commonwealth and State programs that are not consistent with it. Other programs, irrespective of the jurisdiction, will need to be rationalised.

Once the Scheme is operating, state and locally-imposed project approval conditions will have no further justification. Such conditions limit choices properly made by the project proponents to respond to the market created by the emissions trading scheme; they pose significant risk of arbitrarily burdening projects with unnecessarily high costs, are likely to duplicate Scheme responses and offer little prospect of a net environmental or economic benefit either to the developer or the community. For that reason, Woodside does not support a 'greenhouse trigger' being introduced to the EPBC Act as a new matter of National Environmental Significance.

Any regulatory intervention that aims to reduce emissions – including imposing project specific greenhouse gas reduction or offset conditions – provides further potential for duplication and inconsistency between market driven responses and regulatory conditions, resulting in investment uncertainty.

Other new matters of National Environmental Significance

Woodside is aware that other new matters of national environmental significance have been raised before the current Senate Committee inquiry into the operation of the EPBC Act (such as native vegetation clearing and water extraction). Our statements and observations above regarding actual and potential duplication and inconsistency with existing State based regulation also apply to the introduction of further matters of NES. Given there are some existing issues associated with the implementation of the EPBC Act – we respectfully submit that those matters are addressed before further matters of NES are introduced.

Thank you again for the opportunity to provide our comments to this Review.

Yours sincerely



Dr Vanessa Guthrie
Vice President Sustainable Development