



Report and recommendations of the Environmental Protection Authority



**Wheatstone development -
inquiry under s46 of the
Environmental Protection Act 1986 to
change Condition 19 of
Ministerial Statement 873**

Chevron Australia Pty Ltd

Report 1462

December 2012

ENVIRONMENTAL PROTECTION AUTHORITY
REPORT AND RECOMMENDATIONS TO THE MINISTER FOR
ENVIRONMENT

**WHEATSTONE DEVELOPMENT – INQUIRY UNDER S46 OF THE
ENVIRONMENTAL PROTECTION ACT 1986 TO CHANGE CONDITION 19
OF MINISTERIAL STATEMENT 873**

The Minister for Environment requested on 27 July 2012 that the Environmental Protection Authority (EPA) inquire into and report to the Minister on Chevron Australia Pty Ltd's proposed changes to the environmental conditions applicable to the Wheatstone Development.

The following is the EPA's Report and Recommendations (No.1462) to the Minister pursuant to section 46(6) of the *Environmental Protection Act 1986* (EP Act).

Background

Chevron Australia Pty Ltd (Chevron) obtained approval under the EP Act to implement a proposal, referred to as the Wheatstone Development – Gas processing, Export Facilities and Infrastructure, following assessment of its Environmental Review and Management Programme of July 2010. The project includes gas processing, export facilities and infrastructure, and is located in the shires of Ashburton and Roebourne. The implementation authorisation and conditions are specified in Ministerial Statement 873 of 30 August 2011.

Ministerial Statement 873 provides that Chevron may construct and operate a 25 million tonne per annum Liquefied Natural Gas (LNG) facility and associated domestic gas facility in the proposed Ashburton North Strategic Industrial Area, 12 kilometres south west of the town of Onslow. The Wheatstone Development includes the construction of a number of facilities and associated activities in the marine environment, including a shipping channel, product loading facility, materials offloading facility (including breakwaters and turning basins), trunklines and dredge spoil areas.

Condition 19 of Ministerial Statement 873 is aimed at minimising greenhouse gas emissions. It outlines Chevron's obligation to develop and implement a Greenhouse Gas Abatement Program for the Wheatstone project, to make this plan publicly available and to have the project's performance against this plan regularly assessed by an independent specialist.

In anticipation of the introduction of the Commonwealth Government's carbon pricing legislation, Condition 19-9 of Ministerial Statement 873 contains a 'complementarity clause', providing that greenhouse gas conditions may be removed if the Minister for Environment determines that they are non-complementary to national greenhouse gas reduction legislation applicable to the proposal.

On 21 March 2012 Chevron submitted a request to the Minister for Environment for determination under the complementarity clause. Chevron considers that conditions 19-1 to 19-8 should be removed on the basis that they are non-complementary to the Commonwealth Government's Clean Energy Future legislation.

On 27 July 2012 the Minister submitted a request to the EPA to review the greenhouse gas conditions in Ministerial Statement 873 under section 46 of the EP Act.

Consideration of the proposed change to conditions

In accordance with the EPA's objectives under the EP Act to protect the environment and prevent, control and abate pollution and environmental harm, the EPA encourages the uptake of measures to minimise greenhouse gas emissions. The EPA recognises the introduction of the carbon pricing mechanism as the primary instrument to promote greenhouse gas abatement but believes that its guiding principle of encouraging best practice remains important.

In order to assist its consideration of the conditions, and to ensure that the EPA's recommendations are consistent with the carbon pricing scheme, a review of Condition 19 in Ministerial Statement 873, by an independent expert, was commissioned (Meta Economics Consulting Group Pty Ltd, *Carbon Price Complementarity of WA Greenhouse Gas Requirements*, Canberra, August 2012). The review concludes that only parts of the condition are non-complementary to the Commonwealth Government's Clean Energy Future legislation.

The EPA believes there is an argument for a continuing role for State governments in monitoring performance and promoting greenhouse gas reduction measures which are complementary to the carbon pricing scheme, particularly in the case of large emitters. The projected greenhouse gas output of the Wheatstone project, when fully operational, is approximately 10 Mt CO₂-e per year. This is a substantial increase in the State's emissions, which totalled 74.9 Mt CO₂-e in 2009-10.

The EPA considers that transparency is a key element of maintaining public confidence in the environmental performance of proponents. It is through information, presented in a readily understood form, that there is an opportunity for appropriate public accountability.

While retention of conditions regarding the reporting of emission levels is one step toward transparency, in the EPA's view, this information is more meaningful if provided in the context of *relative* performance against comparable projects.

A key element of the EPA's assessment of the Wheatstone proposal was the company's undertaking to the EPA that it could meet a performance measure of 0.26 tonnes carbon dioxide equivalent per tonne of LNG, excluding consideration of reservoir carbon dioxide.

The Government may wish to consider ensuring that such a reporting benchmark remains as a basis for meaningful public accountability.

According to independent expert advice obtained by the EPA, such requirements would impose minimal additional costs.

Existing reporting by proponents under the provisions of the *National Greenhouse and Energy Reporting Act 2007* (NGER Act) is of limited value to the public as emissions and energy data are aggregated up to a corporate level and are not available on a project specific basis. Furthermore, obligations under the NGER Act are designed for data collection only, not for the assessment of performance.

The EPA understands that conditions 19-1 to 19-7 of Ministerial Statement 873 relating to design, benchmarking, best practice and monitoring and reporting are generally complementary to a carbon pricing mechanism and can therefore be retained if the Minister so chooses. However, as the requirement of specific measures and the achievement of particular outcomes is inconsistent with the functioning of the market mechanism, the EPA would recommend modifying Condition 19-2(iv) as outlined in the attached recommended statement. As modifying Condition 19-2(v) in the way suggested by the independent advice would make the condition difficult to enforce, the EPA recommends it be deleted.

The EPA also suggests that monitoring and reporting requirements in conditions 19-4 and 19-6 may be relaxed, as outlined in the recommended statement. Chevron could be required to submit to the CEO an assessment of the project's performance against the Greenhouse Gas Management Plan and engage an independent specialist for a review at intervals of no greater than five years. Reporting of the project's greenhouse gas emissions would be required on an annual basis, in line with the reporting cycle under the NGER Act.

The EPA concludes that Condition 19-8 requiring the implementation of a greenhouse gas offset package is non-complementary to the carbon pricing mechanism and should, in its view, be removed.

Other advice

The EPA believes there may be an argument for a continuing role for State governments in promoting greenhouse gas reduction measures, provided those measures do not distort the market. However, this is a matter for Government policy decision.

For its part, and mindful of its legislative obligation to protect the environment and prevent, control and abate pollution and environmental harm, the EPA will continue to examine projects that have a significant greenhouse gas emissions profile and are subject to environmental impact assessment under the EP Act.

EPA conclusion and recommendations

In view of the request by Chevron and investigations undertaken by the Office of the Environmental Protection Authority (OEPA), the EPA concludes that only parts of Condition 19 of Ministerial Statement 873 are considered non-complementary to the Commonwealth Government's Clean Energy Future Legislation.

In accordance with the EPA's environmental protection objectives under the EP Act and in light of the importance it places on transparency and public accountability, the EPA recommends that the Government may wish to consider retaining conditions relating to design, benchmarking, best practice and monitoring and reporting, albeit in a modified form.

Having inquired into the matter, the EPA submits the following recommendations to the Minister for Environment:

1. That Condition 19 is revised so as to ensure it is complementary to the Commonwealth Government's greenhouse gas reduction legislation applicable to the proposal;
2. That Condition 19 is revised so as to relax the monitoring and reporting requirements;
3. That Condition 19-8 is deleted as it is considered non-complementary to the Commonwealth Government's greenhouse gas reduction legislation applicable to the proposal; and
4. That after complying with section 46(8) of the EP Act, the Minister publishes a statement of decision to amend Condition 19 and delete Condition 19-8 in the manner provided for in the attached recommended statement.

RECOMMENDED ENVIRONMENTAL CONDITIONS

**STATEMENT TO AMEND CONDITIONS APPLYING TO A PROPOSAL
(PURSUANT TO THE PROVISIONS OF SECTION 46 OF THE
ENVIRONMENTAL PROTECTION ACT 1986)**

WHEATSTONE DEVELOPMENT – GAS PROCESSING, EXPORT FACILITIES AND
INFRASTRUCTURE.

SHIRE OF ASHBURTON AND ROEBOURNE.

Proposal: The Proposal is to construct and operate a 25 million tonne per annum Liquefied Natural Gas (LNG) facility and associated Domestic Gas (Domgas) facility in the proposed Ashburton North Strategic Industrial Area (ANSIA) 12 kilometres south west of the town of Onslow. The Proposal includes:

- Subsea gas trunkline to bring produced hydrocarbons onshore to the LNG and Domgas plants;
- Product loading facility (PLF);
- Materials offloading facility (MOF);
- LNG and Domgas plants;
- Accommodation facilities; and
- Domgas pipeline to transport natural gas to the Dampier to Bunbury Natural Gas Pipeline.

The key components of the Proposal are further documented in schedule 1 of statement 873.

Proponent: Chevron Australia Pty Ltd

Proponent Address: 250 St George's Terrace, PERTH WA 6000

Assessment Number: 1956

Previous Assessment Number: 1754

Report of the Environmental Protection Authority: Report 1462

Previous Report of the Environmental Protection Authority: 1404 & 1440

Previous Statement Number: 873

The implementation of the proposal to which the above report of the Environmental Protection Authority relates is subject to the conditions and procedures contained in Ministerial Statement No. 873, as amended by the following:

1. Change to Condition 19-1

Condition 19-1 of Ministerial Statement 873 is deleted and replaced with a revised Condition 19-1:

19-1 Prior to commencement of construction of the LNG plant, unless otherwise approved by the CEO, the Proponent shall prepare and submit to the CEO for approval, a Draft Greenhouse Gas Management Plan for the LNG Plant and Domgas Plants, including all flares, which has the objectives of minimising net greenhouse gas emissions from the Proposal and reducing emissions per tonne of product as far as practicable.

2. Change to Condition 19-2

Condition 19-2 of Ministerial Statement 873 is deleted and replaced with a revised Condition 19-2:

19-2 The Greenhouse Gas Management Plan shall:

- i. demonstrate that the Proposal is designed and operated in a manner which minimises greenhouse gas emissions as far as practicable;
- ii. demonstrate that maximising energy efficiency and opportunities for future energy recovery have been given due consideration in the design and operation of the Proposal;
- iii. include measures aimed at achieving as low as practicable greenhouse gas emissions from the LNG Plant, including all flares, and which is reported against the benchmark identified by the Proponent in its document *Wheatstone Project Terrestrial Environment; Wastes and Emissions; Recreational Use*, March 2011, of 0.26 tonnes carbon dioxide equivalent per tonne of LNG, excluding consideration of reservoir carbon dioxide;
- iv. include an analysis of “greenhouse gas” intensity [i.e. quantity of carbon dioxide equivalents (CO₂-e) generated per tonne of product produced] and consideration of published benchmarked best practice for equivalent plants; and
- v. describe the format and level of detail in which greenhouse gas emissions will be reported annually to the CEO.

3. Change to Condition 19-3A

Condition 19-3A of Ministerial Statement 873 is deleted and replaced with a revised Condition 19-3A:

19-3A The Proponent shall provide relevant stakeholders with a draft copy of the Greenhouse Gas Management Plans required under conditions 19-1 and 19-3, and provide those stakeholders a reasonable opportunity to comment on the plans before they are submitted to the CEO under conditions 19-1 and 19-3.

4. Change to Condition 19-3

Condition 19-3 of Ministerial Statement 873 is deleted and replaced with a revised Condition 19-3:

19-3 Prior to commissioning of the LNG plant, unless otherwise approved by the CEO, the Proponent shall prepare and submit to the CEO, for approval, a Final Greenhouse Gas Management Plan.

5. Change to Condition 19-4

Condition 19-4 of Ministerial Statement 873 is deleted and replaced with a revised Condition 19-4:

19-4 The Proponent shall review the Greenhouse Gas Management Plan and submit a review assessment report to the CEO on the performance of the Proposal against the requirements of condition 19-2 at intervals of no greater than five years.

6. Change to Condition 19-5

Condition 19-5 of Ministerial Statement 873 is deleted and replaced with a revised Condition 19-5:

19-5 The Proponent shall implement the Greenhouse Gas Management Plan required under conditions 19-1 to 19-4.

7. Change to Condition 19-6

Condition 19-6 of Ministerial Statement 873 is deleted and replaced with a revised Condition 19-6:

19-6 In addition to condition 19-4, the Proponent shall commission an Independent Specialist to assess the Proponent's performance against the Final Greenhouse Gas Management Plan which meets requirements of condition 19-2 at intervals of no greater than five years, with the Independent Specialist's assessment

report being provided to the CEO within 20 business days of it being received by the Proponent.

8. Change to Condition 19-7

Condition 19-7 of Ministerial Statement 873 is deleted and replaced with a revised Condition 19-7:

19-7 The Proponent shall make the Draft Greenhouse Gas Management Plan required by condition 19-1, the Final Greenhouse Gas Management Plan required by condition 19-3 and the reviews under conditions 19-4 and 19-6 publicly available in a manner approved by the CEO.

9. Change to Condition 19-8

Condition 19-8 of Ministerial Statement 873 is deleted and replaced with a revised Condition 19-8:

19-8 The proponent shall report the greenhouse gas emissions associated with the project to the CEO on an annual basis, in the manner described in the approved Greenhouse Gas Management Plan.

10. Change to Condition 19-9

Condition 19-9 of Ministerial Statement 873 is deleted.

**HON BILL MARMION MLA
MINISTER FOR ENVIRONMENT; WATER**