COALITION SENATORS' DISSENTING REPORT

Introduction

Coalition senators are deeply concerned that the future of Australia's gas industry, particularly the export-focussed and environmentally-beneficial LNG sector, is being threatened by an ill-conceived decision which is nothing more than a cynical revenue-raising exercise.

By imposing an excise on condensate from the North West Shelf (NWS), the Government intends to raise $2.5 billion in additional revenue over the forward estimates period to help fund a $15 billion increase in net government spending.

The way the measure has been introduced has the potential to seriously undermine investor confidence at a time when economically and environmentally we should be doing everything we can to attract more investment in gas exploration and production.

Major LNG projects, such as the Inpex Ichthys project and Woodside's Browse project, are key components of an expected $100 billion worth of new projects in Australia's oil and gas sector.

While Australia has been touted as having the potential to be another Qatar, we remain "underweight" in terms of LNG projects.

With demand for LNG in the Pacific Basin expected to grow by 83 per cent by the end of the next decade, Australia needs to be making the right public policy decisions today aimed at encouraging investment in gas exploration and production.

These decisions can only be made if the government of the day sets down a clear, strategic framework which recognises the unique challenges faced by the LNG industry and provides investors with the confidence to commit the huge sums of money required over the long timeframes involved in developing LNG projects.

As the Australian Petroleum Production and Exploration Association (APPEA) put it, the government needs to decide whether it is going to plan for the industry's growth or if it is simply going to tax the industry to a point of paralysis.[1]

Coalition senators believe the government's decision to hit the industry with a new $2.5billion tax grab confirms the present government is prepared to put short-term revenue raising ahead of sound, long-term, strategic policy development.

The inclusion of taxation arrangements for the oil and gas industry in the terms of reference for the Henry Review confirms that the government has put the cart before the horse and has imposed this tax increase with no clear understanding of the ramifications.

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[1] Ms Belinda Robinson, Chief Executive, APPEA, *Proof Committee Hansard,* 15 July 2008, p. E13.

In summary, our major concerns, supported by the evidence presented to the committee, are that this new tax measure:

- is driven by a short term desire to raise revenue to pay for significant spending increases and not by a strategic direction balancing the objective of achieving an appropriate return to the community with the need to provide a competitive taxation framework for an important industry;
- undermines Australia's reputation for low sovereign risk;
- works against Australia's ability to attract new LNG investment;
- negatively affects new investment decisions for Australia's largest resources project;
- impacts significantly on the price competitiveness of LNG exporters;
- imposes significant compliance challenges and costs on the industry; and
- will inevitably lead to higher domestic gas prices in Western Australia for both industrial and residential users.

Background

Coalition senators recognise the importance of the gas industry when it comes to ensuring our energy security, boosting our capacity to help address the challenge of climate change and helping drive our future prosperity as a nation.

According to APPEA, the oil and gas sector contributed an average of $5billion a year in taxation revenue over the five years to 2006-07. The LNG sector is a key component of the industry and generated export sales worth $5billion in 2006/07[2].

The LNG industry also generates thousands of jobs, directly and indirectly, and has made an enormous contribution to the extraordinary economic growth experienced in Western Australia.

The cornerstone of Australia's LNG industry has been the massive North West Shelf (NWS) project; this new measure directly affects this project.

For 30 years the NWS project had enjoyed a stable fiscal framework, negotiated in good faith with the Commonwealth, which had helped underpin the largest capital investment in a resources project in Australia. These arrangements enjoyed bi-partisan support throughout the years from consecutive governments.

The move to remove the exemption for this project from the excise on condensate breaches that trust. It threatens future investment decisions within the venture and, as evidenced by APPEA, sends a dangerous message to foreign investors on sovereign risk.

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[2] Source: ABARE

It is almost beyond belief that a government would impose a new $2.5billion tax impost on such an economically vital industry without carefully thinking through the ramifications.

Evidence presented to the Committee confirmed that the Commonwealth had not consulted with the industry on the planned change, its implementation or its broader implications for the future growth of the gas industry.

This is surprising given the well-grounded speculation that this measure had been identified as a revenue-raising measure by the ALP while in Opposition in the lead-up to the 2007 Federal election.

In April 2008, the Minister for Resources and Energy, the Hon Martin Ferguson, told the APPEA national conference in Perth:

> Open and transparent investment frameworks – underpinned by our democratic principles and commitment to strong governance arrangements – are the key to investment confidence in our nation. [3]

Mr Ferguson's commitment to transparency did not extend to the industry itself when it came to the government's new tax measure.

Ms Belinda Robinson, Chief Executive of APPEA, told the committee:

> If we better understood what the motive was, we could have perhaps worked more closely together to try to look at the various options for delivering on that motive or that objective and then discussed what the implications might have been, perhaps even in the context of the broader energy policy position. We are aware that the government is embarking on an energy policy process. They are also embarking on the Henry review of taxation. Perhaps it is within those processes that we can better, more systematically and more coherently think about what it is that we are trying to achieve as a nation and take into account all the options for achieving that. So I guess when we make these ad hoc decisions, it cannot be done within that context. We are just left to pick up the pieces. [4]

No discussions took place between Treasury and the North West Shelf Venture to discuss the implications of the change.

Of even greater concern was the revelation that the measure had been drafted by the Department of Treasury without any reference to the relevant expert department, the Department of Resources, Energy and Tourism[5].

The LNG industry in Australia is at a crossroads. Australia is in danger of missing out on its window of opportunity presented by the expected huge growth in demand for LNG in the Pacific Basin over the next two decades.

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[3] Hon Martin Ferguson MP, Minister for Resources and Energy, Plenary Address at APPEA's 48th Annual Conference, 7 April 2008.

[4] Ms Belinda Robinson, Chief Executive, APPEA, *Proof Committee Hansard,* 15 July 2008, p. E2.

[5] Mr Matthew Flavel, Acting General Manager, Business Tax Division, Treasury, *Proof Committee Hansard*, 11 August 2008, p. E6.

Australia is the highest cost destination for LNG investment in the Asia-Pacific region with our industry facing significant geological and technical challenges and risks when compared with our competitors.

According to the industry, these risks and challenges have been counter-balanced by a number of "positives" including;

- our reputation for low sovereign risk
- our political stability; and
- our educated and skilled workforce.

The committee has heard clear evidence that this new tax measure is already causing considerable damage to Australia's reputation for low sovereign risk.

It is difficult to imagine that a government would renege on a negotiated fiscal arrangement of some 30 years' standing and not expect there to be any fallout from potential international investors looking at other major resource projects in Australia.

APPEA told the committee that the decision had 'raised some investor eyebrows around the world'.[6] APPEA maintained the Commonwealth's decision to change the fiscal arrangement for the NWS project and the way it was done, was more in line with the actions of governments in Venezuela and Trinidad.[7] They pointed to a fiscal stability agreement struck with the PNG government by Papua New Guinea LNG proponents, effectively freezing a fiscal regime for the life of that project in the context of what may be a possible requirement for Australia in the future.[8]

At a time when Australia should be doing everything possible to encourage and promote investment in our LNG industry so that we are well-placed for the coming boom in demand, our government has sent an appalling message to potential investors.

This is particularly disappointing as increasing the production of LNG and consequently the supply of LNG into China and other nations in the Asia Pacific, could make a meaningful contribution in addressing the challenge of climate change.

LNG projects require massive capital investments in the order of $20 billion or more. One consequence of the long lead times to first production is that LNG projects also have long lead times for returns on investment. Significantly, the nature of the LNG market is such that producers are locked into long-term contracts which have usually been negotiated in a highly competitive market-place.

It is for these reasons that investors require the highest level of fiscal certainty from government.

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[6] Ms Belinda Robinson, Chief Executive, APPEA, *Proof Committee Hansard,* 15 July 2008, p. E1.

[7] Ms Belinda Robinson, Chief Executive, APPEA, *Proof Committee Hansard,* 15 July 2008, p. E4.

[8] Mr Noel Mullen, Deputy Chief Executive, APPEA, *Proof Committee Hansard,* 15 July 2008, p. E4.

The committee has heard that there is little scope for the companies of the North West Shelf Venture to pass on this additional tax impost to their foreign clients due to the long-term nature of their contracts.

This new tax measure is bad for the industry in that it sends a message that the Australian government is willing to shift the fiscal goal posts once a project has commenced operation and after a project has been locked in to long-term fixed-price supply contracts.

In doing so, the government has seriously diminished one of the Australian LNG industry's key points of attraction for foreign investors and has, by implication, made it more difficult for Australia to compete with other nations trying to secure new LNG investments.

It was clear from the evidence presented to the committee that this was never considered by the government.

As Ms Robinson told the Committee:

> If you are a board considering spending $20 billion on an LNG project, you want to know, I think not unrealistically or unreasonably, that what arrangements you agree with the government for the lifecycle, for the full lifespan, of that investment, as has been the case forever in this country, are going to be the rules that apply through the development of that project. Otherwise you cannot make that investment. No board would agree to $20 billion of their investors' money going into a project if they think that at any time on any sort of whim or for any reason a government will change that taxation revenue. They simply will not commit those funds.[9]

Unique secondary taxation arrangement for North West Shelf Project

There has been some debate as to whether the arrangement allowing an exemption from excise on condensate for the NWS project was a negotiated fiscal arrangement or a 'loophole'.

Related to this is also a serious question mark over the Government's assertion that the NWS project had somehow benefited from a taxation advantage not available to other equivalent gas projects.

The government has argued that the exemption was designed solely to assist the NWS project to get off the ground and that, as the project was now mature and profitable, there was no further need to maintain the arrangement.

This is a convenient re-writing of history to help the government justify an additional $2.5 billion tax.

The fiscal framework which helped create the NWS project was established by the Western Australian government of Sir Charles Court and the Federal government of then Prime Minister Malcolm Fraser.

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[9] Ms Belinda Robinson, Chief Executive, APPEA, *Proof Committee Hansard,* 15 July 2008, p. E9.

Since then the NWS project has paid billions of dollars in royalties and excise to both the Commonwealth and the State of Western Australia. In the 12 years between 1995–96 to 2006–07 the NWS project contributed $6.5 billion in royalties alone.[10]

In other words, the NWS project partners honoured their side of the arrangement. On the other side, consecutive Coalition and Labor Federal governments maintained the fiscal arrangements put in place at the time.

The Government has now tried to argue that with this new tax measure it is in fact closing a loophole and removing a tax advantage. The Treasurer has been quoted in the media as saying that

> most people in the industry believed it was time the tax advantage for the North West Shelf ended[11].

The response from Mr Don Voelte, CEO of Woodside (one of the NWS partners) to this claim was emphatic:

> this is not a loophole or a free ride which has come to an end. This is a negotiated fiscal arrangement which formed the basis of Australia's largest resource development.

Treasury officials told the committee:

> Contrary to suggestions from industry we have not been able to find any statements or documents which suggest that the exemption was supposed to apply indefinitely.[12]

But in a response to a question on notice from the Estimates hearings, Treasury's line had softened:

> Treasury does not have any information to confirm or reject the original arrangements asserted by Woodside.

In evidence before the Committee, Treasury appeared confused about the secondary taxation status of the NWS project as demonstrated by the following evidence by Mr Brown:

> …the project has had an exemption from all secondary taxation at the Commonwealth level, not counting the royalty arrangement which is in place with the states. It has been exempt from crude oil excise for 30 years.[13]

And a bit later Mr Brown said:

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[10] North West Shelf Venture, *Submission 3*, p. 4.

[11] Tax on NW Shelf fair, says Swan, *The West Australian*, 21/05/2008, page 16.

[12] Mr Paul McCullough, Acting General Manager, Revenue Group, Treasury, *Proof Committee* H*ansard*, 11 August 2008, p. E2.

[13] Mr Paul McCullough, Acting General Manager, Revenue Group, Treasury, *Proof Committee* H*ansard*, 11 August 2008, p. E4.

> …the project that we are talking about has enjoyed for 30 years an exemption from the secondary taxation regime to which it was subject.[14]

The reality is that this evidence was incorrect.

The North West Shelf Project has paid royalties on all products produced by the Joint Venture and excise on all oil produced from the venture from day one.

Specifically, the North West Shelf Project has paid:

- Petroleum royalties, set a rate of between 10 and 12.5% of the net wellhead value of production from each licence area. Unlike PRRT, petroleum royalties are payable from the commencement of production from each licence area. Commonwealth royalties apply to North West Shelf production, while state/territory royalties apply to projects under non-Commonwealth jurisdiction; and
- Crude oil production excise associated with crude oil produced from each petroleum field. Crude oil production on the NWS has not been excise exempt.

Treasury has since confirmed in an e-mail to the Committee secretariat that this understanding is indeed correct.

For all the government's bluster on the 'loophole' issue, Treasury cannot provide any information that would indicate there was in fact not a clear understanding that the exemption was part of an agreed fiscal arrangement.

The loophole issue is itself a red herring from the government designed to divert attention away from the nature of the fiscal arrangements agreed to for the NWS project as compared to similar oil and gas projects since.

The North West Shelf project was required to pay royalties and excise from first production - that is irrespective of whether profits were made.

Offshore gas projects since are subject to the profits-based Petroleum Resource Rent Tax (PRRT), which includes a range of deductions for 'allowable expenditure' (including compounding).

This was confirmed by Mr Hartwell, Head of the Resources Division in the Department of Resources, Energy and Tourism, before Senate Estimates on 2 June 2008:

> **Mr Hartwell–** … on all projects offshore—with the exception of the North West Shelf leases—they are subject only to the petroleum resource rent tax. In the North West Shelf they are subject to excise plus royalties.
>
> **Senator CORMANN**—So all projects offshore other than the North West Shelf do not pay excise or royalties, including excise on condensate?
>
> **Mr Hartwell**—That is right, because they are subject to the petroleum resource rent tax.

[14] Mr Paul McCullough, Acting General Manager, Revenue Group, Treasury, *Proof Committee* H*ansard*, 11 August 2008, p. E5.

The net effect is that those projects often do not pay any secondary taxation for many years after production commenced. This system of secondary taxation was introduced after the fiscal arrangements for the NWS project were put in place. The structure of the PRRT system recognises the marginal nature of these capital intensive projects with high investment costs and low initial returns to help facilitate those investments.

The head of the Resources Division in the Department confirmed this before Senate Estimates on 2 June 2008:

> **Mr Hartwell**—Our experience would be, given it is a profits-based tax, most projects would not incur PRRT until five to 10 years at least. Sometimes the more marginal ones may not even incur a liability on petroleum resource rent tax at all.

This means that the North West Shelf project carried more risk for an extended period of time when compared to other offshore gas projects today.

In an ASX announcement the day after the budget, Woodside CEO Don Voelte said:

> relief from condensate excise was among a range of measures between the North West Shelf participants and the Commonwealth and Western Australian governments that underpinned the economic viability of the project, *while guaranteeing early financial returns to government*.[15]

Importantly, Mr Hartwell from the Resources Division in the Department has previously argued before Senate Estimates that if the NWS project had in fact been subject to PRRT, that over the life of the project the secondary taxation liability would have been about the same.[16]

If that is indeed the case, then clearly the NWS project did not enjoy a taxation advantage and would now be actually worse off as a result of this measure compared to other offshore gas projects subject to PRRT.

The evidence of Eve Howell, Chief Executive Officer of the NWS Venture, indicated significant concerns that the new tax arrangements would place the NWS project at a comparative disadvantage:

> I think the comment has been made about level playing fields and so on. We would like to see not just from our own work but from the government departments some evidence that this really is a level playing field.[17]

The evidence indicates the government has mounted a deceptive and dishonest public campaign to paint the NWS project as being the recipient of a free ride through the excise exemption.

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[15] Woodside ASX Announcement, Imposition of excise on North West Shelf condensate, 14 May 2008

[16] Mr Hartwell, Head of Resources Division, Department of Industry, Tourism and Resources, Senate Estimates, *Economics Committee Hansard*, 31 May 2005, p. E7;

[17] Ms Eve Howell, Chief Executive Officer, North West Shelf Venture, *Proof Committee Hansard,* 15 July 2008, p. E19.

To properly assess fairness or whether there has been an unfair advantage, taxation arrangements for relevant gas projects would have to be considered over the life of the project. Capital intensive gas projects since 1987 will incur no secondary taxation liability in the early stages of the project and a tax on profits once the project has become profitable. The NWS project had its secondary taxation liability more evenly spread across the whole project life cycle. The NWS project paid royalties and excise irrespective of profitability.

The Government now no longer wants to recognise the comparatively higher contribution made by the NWS in the earlier years and increase taxes based on a perception of increased profitability in the later years.

During the inquiry the proposition was put to Treasury that the government needed to substantiate its assertion that the NWS project enjoyed a taxation advantage compared to offshore gas projects subject to PRRT. Treasury was dismissive only stating that:

> **Mr Brown**—The project that we are talking about has enjoyed for 30 years an exemption from the secondary taxation regime to which it was subject. Other projects are subject to another secondary taxation regime and are not exempt from that.

The NWS project was not of course exempt from the secondary taxation regime to which it was subject and neither Treasury nor the government have presented any evidence that it had gained an unfair advantage from those fiscal arrangements.

On the contrary, it is clear the NWS project accepted significant additional risk by being required to pay excise and royalties from first production and in doing so providing early returns for government.

Furthermore, the Government appears to have underestimated the impact of this measure on future additional investment on the NWS itself.

Additional investment on the NWS subject to the excise regime, including the additional excise on condensate, will not be deductible while for projects subject to PRRT it would be.

This was pointed out by the NWS Venture in its submission:

> For fields that have exceeded 30 million barrels of excise free production, future investment decisions to either enhance or expand production from a field or project will now face a fundamentally different risk/reward framework. As the excise system does not allow a deduction for incurred costs (unlike the PRRT and royalty regimes), project proponents may consider alternative investments if the impact of excise adversely impacts on project economics, leaving hydrocarbon resources in the ground that would otherwise be economic to produce.[18]

The NWS project now faces the clear possibility of being placed at a comparative disadvantage in taxation terms to other offshore gas projects which did not have to accept the same requirement for early taxation payments.

[18] North West Shelf Venture, *Submission 3,* p. 10.

It is clear that all these issues should have been considered and addressed by the Henry Review before any changes were made to the fiscal settings for the NWS project in this ad hoc fashion.

Compliance costs for gas projects

The government's failure to consult with the industry on this new tax measure has left the industry with a compliance nightmare.

It is clear that neither Treasury nor Finance fully understood the practical implications for implementing this new tax measure.

Treasury had assured the committee that implementation of the new measure, which came into effect on Budget night, was relatively straightforward.

The evidence from industry confirmed that Treasury had badly misjudged the implications.

Noel Mullen, Deputy Chief Executive, APPEA, told the committee:[19]

> **Mr Mullen**—There seems to be a misunderstanding that there is some parallel between the royalty and excise regimes. While they apply in tandem, they are very different regimes. ...
>
> **Senator CORMANN**—So Treasury had that misunderstanding, did they?
>
> **Mr Mullen**—Well, the royalty regime applies on a licence area basis, which bears no resemblance to the geography or geology of a field, whereas the excise regime is very much field and accumulation driven. The information that would have historically been kept by companies in relation to royalty will bear very little resemblance to what is required for the excise regime. So really to assume that someone is in a position technically to move straight into a new regime, such as on budget evening, probably fails to understand the differences that exist between the two systems.

Of even greater concern was the evidence that the new tax regime would require on-shore gas producers to incur significant compliance costs even though they may never be required to pay the excise.

> **Mr Mullen**—The evening of the announcement, which was the proposed date of effect, there were obviously some obligations which immediately flowed to both the North West Shelf participants and onshore producers. ... While on the surface the number of fields which might be relevant in the North West Shelf is quite small, because the measure applies onshore, there are numerous fields onshore which now are captured by the regime.
>
> The North West Shelf partners may be in a better position to outline where they are on their dealings. But certainly a lot of onshore players who have never been captured by the regime before are still coming to terms with what they are required to do even though in reality they will probably not incur an excise liability for one reason or another.

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[19] Mr Noel Mullen, Deputy Chief Executive, APPEA, *Proof Committee Hansard,* 15 July 2008, p. E7.

> **Senator CORMANN**—So they would have additional compliance costs and an additional compliance burden but there will actually not be any additional revenue for the Commonwealth, as far as you can see?
>
> **Mr Mullen**—Certainly based on the information we have, it is very unlikely that any onshore discoveries will incur an excise liability.

The evidence before the committee indicates these on-shore companies will incur compliance costs with no benefit at all to Commonwealth revenues. Domestic gas consumers in Western Australia, however, will face increased gas prices as these additional compliance costs will inevitably also be passed on.

Higher domestic gas prices

Apart from compliance costs placing upward pressure on domestic gas prices, it is inevitable that gas producers will seek to recover the revenue they will lose from the removal of the excise exemption.

Woodside's Chief Financial Officer Mark Chatterji has warned gas consumers that his company cannot absorb the cost of the tax increase:

> In order to stay competitive, businesses seek to pass cost increases on to their customers. This is especially true for Woodside, given that we are reinvesting 100 per cent of our profits and borrowing billions of additional dollars in order to build our Pluto LNG Project here in Western Australia.[20]

The NWS will inevitably seek to pass on the additional costs arising from the excise changes as domestic gas contracts come up for renewal. Given the NWS supplies 60% of the gas to the WA domestic market this will place strong upward pressure on gas prices at a time when there is already pressure on gas prices.

Evidence to the committee also indicated that LNG contracts are long-term agreements, often negotiated in a 'buyers market', with little scope for price variation.

The NWS project will lose $2.5 billion to this new tax measure over the period of the forward estimates.

Ms Robinson told the committee:

> The North West Shelf is taking the hit. Of course, it's going to be up to them as to how they pass that through.
>
> They have long-term contracts for the sale of their gas. I think that is a really important thing to remember with the gas industry; they are subject to long-term contracts. Some of them are not particularly favourable, but they were signed off at a particular time that you wear. So the options really are to take it on the chin, take it off your bottom line or to pass it through in your future contracts—so from here on in. Of course, most companies are required to stick with their rates of return or

[20] Andrew Probyn, 'Woodside threatens to pass on proposed tax to WA households', *The West Australian*, p. 1.

> their hurdle rates that are agreed through their boards, so that means that they need to be passed through in some way, shape or form.

Apart from the cost of the tax itself being passed on, there is also going to be further pressure on the price of gas as a result of not encouraging increases in supply at a time of significant increases in demand. The way the new tax was introduced, the impact that this will have on our sovereign risk profile and the implications of that in terms of investor confidence could well make investment in new gas projects less attractive.

Potential investors contemplating new gas projects will need to factor in higher gas prices to ensure the economics of the project are sound. As there is little price flexibility in the export market, those higher prices, again are more likely to be paid by domestic consumers in Western Australia.

As Ms Robinson said in evidence to the Committee:[21]

> **Ms Robinson**—I guess the point we are making is that it is simply one that will affect the economics of whether or not the project goes ahead. One of the reasons why the excise exemption was there was this recognition that condensate was co-produced with gas and that that was often the driver or the reason why we were able to commercialise the gas project. Once that goes, it makes it much more difficult to commercialise the project because that is of much higher value. So the decision then becomes not one as to how you pass it off or where you cut the costs. It is just one about whether it is economic for the project to go ahead at all.
>
> **Senator CORMANN—**But your recommendations are very specific. You want the committee to note that gas producers may now require higher prices on gas sales to underpin or support project economics. So what does that mean in practice?
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> **Ms Robinson**—Well, that is one way of addressing those economics. If the project is to go ahead, obviously the sales price of the products that you are selling will have to be higher because it has to make up that difference.
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> **Senator Eggleston** – If you are not getting the income from condensate to balance out the-
>
> **Ms Robinson** – Because you are having to pay the excise on the condensate, which was otherwise exempt from the excise.
>
> **Senator Eggleston** – So your income has reduced. Therefore, you will have to increase costs to the buyer?
>
> **Ms Robinson** – Yes, that is right. If you meet your hurdle rate, which is a marginal rate to begin with.

It should be noted that while the $2.5billion raised by this new tax measure will go to general revenue for the benefit of all Australians, the cost from higher gas prices will be paid only by Western Australian families and businesses.

[21] Ms Belinda Robinson, Chief Executive, APPEA, *Proof Committee Hansard,* 15 July 2008, p. E8.

The warnings of higher domestic gas prices as a result of this new tax measure have fallen on deaf ears with the Premier of Western Australia, Mr Alan Carpenter, simply stating:

> …the companies have been the beneficiaries of the tax exemption and it is up to them to respond on the impact to their bottom line and operations

This is, at best, a serious misjudgment of the situation. At worst, it is a callous disregard for the impact on Western Australian families of higher gas prices caused by this new tax measure.

Even after Woodside publicly confirmed that it may have to pass the additional $2.5 billion cost on to their customers, Premier Alan Carpenter decided to shoot the messenger attacking Woodside rather than to commit to representations in Canberra on behalf of Western Australia.[22]

Treasury confirmed to the committee that it had not done any modelling on the impact of this new tax measure on domestic gas prices. In light of Mr Chatterji's comments, this would appear to be wilfully negligent on the part of the government.

Treasury was not prepared to rule out an impact on the price of domestic gas:[23]

> **Senator CORMANN**—So you can absolutely rule out that there will be any flow-on effect in terms of domestic gas prices as a result of this measure?
>
> **Mr Brown**—I am saying that the prices you are talking about are generally set in international markets and this would not have any impact on those prices.
>
> **Senator CORMANN**—So you cannot rule out that there would be a flow-on effect on domestic gas prices.
>
> **Mr Brown**—All I can say is that I would not expect there to be.

Summary

By ambushing the oil and gas industry with its Budget night announcement, the government has already done significant damage to Australia's reputation for low sovereign risk and as an attractive destination for resource-based investment.

It has also created a compliance nightmare for both itself and oil and gas producers.

There can also be no question that domestic gas prices will rise for Western Australian families and businesses.

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[22] Andrew Probyn and Robert Taylor, 'Woodside gas threat not fair: Premier', *The West Australian*, 21 August 2008, p. 4.

[23] Mr Colin Brown, Acting General Manager, Tax Analysis Division, Treasury, *Proof Committee Hansard,* 11 August 2008, p. E3.

The price competitiveness of Australia's LNG producers has been damaged and Australia's ability to fully exploit its gas resources has been diminished.

This is the price we are paying for a naked grab for cash by a new government which over-committed itself with big spending promises during an election campaign.

The North West Shelf project has been viewed as a soft target for the government.

More than 30 years of trust and cooperation between the venture and the government of the day had helped ensure Australia's gas resources would be exploited for the benefit of all Australians.

Having delivered on their side of the deal, the venture partners have every right to feel they have been treated shabbily by this new government.

The oil and gas industry has made it abundantly clear that it is neither afraid of nor opposed to sensible tax reform.

This should have been done through the Henry review against the background of a strategic framework which would allow the industry to grow and position itself for the opportunities of the coming decades.

As Ms Robinson put it:

> We have a choice. If we want to deliver benefits to Australia from Australia's oil and gas industry, we can just keep taxing it into oblivion or paralysis or we can look at the way we can use our fiscal regime to grow the industry so it can continue and multiply the benefits that it delivers back. [24]

Instead the government has opted to use a blunt taxation instrument to prop up its own budget surplus and further burden the industry.

The irony of this move will not be lost on Western Australians who pride themselves on the massive contribution their state's resources sector makes to the national economy.

Prior to the 2007 election Kevin Rudd said:

> Here in the West, so much money is generated for the public revenue in Canberra out of these great resource projects. But you know something? Not enough of that money is given back.
>
> The West gives so much to the nation's economic development. The West is currently being short-changed. [25]

The removal of the exemption on excise on condensate for the NWS project takes an additional $2.5billion out of Western Australia and returns nothing to the state or its people.

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[24] Ms Belinda Robinson, Chief Executive, APPEA, *Proof Committee Hansard,* 15 July 2008, p. E13.

[25] Mr Kevin Rudd, Federal Labor Leader, Doorstop Interview with Stephen Smith, Shadow Minister for Education and Training at Thornlie Senior High School, 2 August 2007.

Western Australian gas consumers will end up carrying the burden of this additional tax as it is inevitably passed on.

Finally, there is a real concern about the long term damage this ill-conceived revenue measure will do to Western Australia's ability to unlock the huge potential of its off-shore gas resources for the benefit of future generations of Australians.

Coalition Senators note that Labor did not go to the election promising new taxes.

The Coalition is opposed to increasing taxes – we want to reduce the burden of taxation.

In short, Coalition Senators consider that it is economically irresponsible to increase taxes when the economy is slowing.

Accordingly, the Coalition Senators on the committee do not believe this additional tax measure should be supported.

Senator Alan Eggleston

(Deputy Chair)

Senator Mathias Cormann

Senator David Bushby

25 August 2008