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**Report of the
Senate Standing Committee on Economics**

**Matters relating to the gas explosion at
Varanus Island, Western Australia**

GOVERNMENT RESPONSE

Introduction

The Australian Government welcomes the opportunity to respond to the report of the Senate Standing Committee on Economics entitled *Matters relating to the gas explosion at Varanus Island, Western Australia*.

The Government is committed to the provision of cleaner, adequate, reliable and affordable energy to meet future energy consumption needs and to underpin strong economic growth. It is vital that not only Western Australia, but the nation as a whole has access to secure supplies of energy, including gas.

Ensuring Australia's energy security is a high priority for the Government and to this end the Government has undertaken a number of initiatives, including the development of a National Energy Security Assessment (NESA) and development of an Energy White Paper, which are part of a comprehensive strategy to meet Australia's long-term energy needs.

On 26 March 2009, the Hon Martin Ferguson AM MP, Minister for Resources and Energy, released the NESA which identifies the key strategic energy security issues currently facing Australia's liquid fuels, natural gas and electricity sectors, and those likely to influence energy security in 5 (2013), 10 (2018) and 15 (2023) years.

The Energy White Paper will include a review of the Government's energy policies and the development of a policy framework through to 2030 to ensure cleaner, adequate, reliable and affordable supplies of energy to support the functioning of the economy and social development. In March 2009, the Government released the Energy White Paper's Strategic Directions Paper which sets the scene for the development of the Energy White Paper by broadly mapping out its intended scope and identifying some of the specific work being undertaken.

The Government is also committed to ensuring that Australia's offshore petroleum safety regulation is world's best practice. On 9 January 2009, the Commonwealth and Western Australian Governments announced a joint independent inquiry into the effectiveness of regulation for upstream petroleum operations, with a focus on the 3 June 2008 gas pipeline rupture at the Apache Energy Ltd operated facilities on Varanus Island.

Following a successful Federal Court challenge by Apache Energy Ltd in May 2009, the Terms of Reference for the Inquiry were altered, with two reports prepared for the Commonwealth on better practice regulation and the role of the National Offshore Petroleum Safety Authority (NOPSA) and improving the interface between NOPSA and the Australian Maritime Safety Authority (AMSA).

The two Reports, *Better practice and the effectiveness of NOPSA* (the NOPSA Report) and *Marine issues* (the Marine Report), were provided to the Hon Martin Ferguson AM MP, the Minister for Resources and Energy in June 2009. The Minister released the reports at the 9th meeting of the Ministerial Council on Mineral and Petroleum Resources on 9 July 2009. The two reports are available on the Department of Resources, Energy and Tourism website (www.ret.gov.au).

Recommendation 1

6.11 The Western Australian Government should convene a forum comprised of gas producers, suppliers, power companies, industry groups, media outlets and community representatives to discuss and develop a range of standardised emergency response measures in the event that another gas crisis is experienced in Western Australia.

6.12 The forum should examine initiatives, including but not limited to, providing increased transparency and improved communication during periods of disruption to gas supply. Improved communication from government to the community and industry groups to their members would assist in the dissemination of timely and relevant information to the public and industry throughout Western Australia. In addition an analysis of the feasibility of improved contingency planning by government and the market should be undertaken.

6.13 The forum should also discuss the operation of the Gas Supply Coordination Committee and the Gas Supply Disruption Recovery Committee and whether there are improvements that can be made to the operation of these committees if another gas crisis eventuates. An assessment should be made of the Office of Energy priority schedule for gas supply and, whether, in hindsight, any improvements or modifications should be made to the schedule.

Government Position:

The Australian Government notes recommendation one. The Government also notes that State and Territory governments have constitutional responsibility for planning and coordinating emergency responses within their jurisdictional boundaries.

The Government supports relevant stakeholders working together to ensure that Western Australia's (WA) emergency response measures are efficient and consistent across the state and federal levels. The Government supports measures to improve transparency and communication between relevant stakeholders in a timely manner during periods of disruption to gas supply. A forum comprised of gas producers, suppliers, power companies, industry groups, media outlets and community representatives could be an appropriate way to discuss these issues.

Any review of WA's emergency management arrangements should consider the emergency management arrangements in other jurisdictions, and take account of the current Ministerial Council of Energy's review of arrangements for the management of emergencies in the national energy markets. At present, there are separate arrangements in place in the electricity and natural gas supply systems. However, with the creation of a single market operator, the Australian Energy Market Operator, and the convergence of the gas and electricity markets, it is an appropriate time to consider consistent national emergency management arrangements in the future.

Recommendation 2

6.14 The Western Australian Government should conduct an internal analysis of the effectiveness and appropriateness of the legislative framework to deal with periods of energy crisis in Western Australia. Issues such as the government's capacity to invoke emergency powers in the public interest and the effectiveness of government intervention in a market-based industry should be analysed. In particular the response to emergencies under the Energy Coordination Act 1994 (WA) and the emergencies under the Emergency Management Act 2005 (WA) legislation should be assessed for their appropriateness following the experience of the Varanus Island gas explosion crisis.

Government Position:

The Australian Government notes recommendation two. The Government also notes that State and Territory governments have constitutional responsibility for planning and coordinating emergency responses within their jurisdictional boundaries. This includes the implementation of jurisdictional emergency powers under the Energy Coordination Act 1994 (WA) and the Emergency Management Act 2005 (WA).

The Energy Coordination Act 1994 (WA) is the legislative framework underpinning the planning and coordinating energy supply in WA. The Emergency Management Act 2005 (WA) provides for coordinated management of emergencies in Western Australia. It formalises WA's ability to mitigate or prevent, prepare for, respond to and recover from incidents of a large scale or catastrophic nature.

Recommendation 3

6.15 The Western Australian Government should conduct, as soon as practicable, the review of gas security announced on 6 August 2008. The review should be conducted in coordination with the Commonwealth's National Energy Security Assessment currently being conducted by the Commonwealth Department of Resources, Energy and Tourism.

Government position:

On 26 March 2009, the Hon Martin Ferguson AM MP, Minister for Resources and Energy, released the National Energy Security Assessment (NESA) which is an important milestone towards developing a comprehensive strategy to meet Australia's long-term energy needs. The NESA provides a clear picture of the challenges affecting Australia's energy security and highlights the opportunities that we may encounter in the future.

The NESA was developed by the Department of Resources, Energy and Tourism (RET) in consultation with industry, and Commonwealth, State and Territory government agencies. RET consulted with Western Australian (WA) Government officials and energy industry participants through formal consultation workshops conducted in Perth on 15 August 2008 which provided an opportunity for interested parties to raise their concerns about the WA gas market and other energy security issues.

The Australian Government notes that on 29 January 2009, the Hon Peter Collier MLC, WA Minister for Energy, announced a review to be undertaken by the Gas Supply and Emergency Management Committee, which will identify risks to WA's supply of gas, including the amount of gas reserves available to the domestic market as well as processing and gas delivery. It will also examine ways to improve the management of energy emergencies.

The WA Office of Energy is conducting an assessment of WA's gas security which will inform the review. The WA Office of Energy consulted with RET on a draft assessment report with the intention of ensuring that its assessment is consistent with the NESA.

Recommendation 4

6.16 To support increased competition and provide the community with improved information the Western Australian Government should establish a permanent gas bulletin board. Any permanent gas bulletin board should include the provision of information on pipeline capacity and flows to increase the transparency of the gas market in Western Australia. The committee also recommends that the state government explore options to provide the Office of Energy with powers to examine and publish transportation figures from the Dampier Bunbury Natural Gas Pipeline and the Goldfields Gas Pipeline.

6.17 The Western Australian Government should actively engage with the alternative energy industry in Western Australia in order to progress energy diversification through increased alternative energy capacity.

6.18 The Western Australian Government should also examine whether the current market-based approach to energy supply is providing sufficient information, openness and competition to Western Australian consumers.

Government Position:

The Australian Government supports the proposal for the Western Australian (WA) Government to establish a permanent gas bulletin board. The establishment of a permanent gas bulletin board would improve transparency and efficiency in the gas market in WA. It would also disseminate information that would help manage gas emergencies.

The Government considers there would be benefit in WA joining the national gas market Bulletin Board and notes that the Bulletin Board can be expanded to cover non-interconnected pipeline systems operating in WA and the Northern Territory at an incremental cost.

The national gas market Bulletin Board (www.gasbb.com.au), which was launched in July 2008, is a website covering major gas production fields, storage facilities, demand centres and transmission pipelines in South Australia, Victoria, New South Wales, the Australian Capital Territory, Queensland and Tasmania. It serves the purpose of providing transparent, real-time and independent information on the state of the gas market, system constraints and market opportunities and can also help the market respond to gas emergencies. It will complement a new short-term trading market in gas, expected to start in 2010, which will improve price signals and be of particular advantage during systems constraints and emergencies.

The Government notes the recommendation for the WA Government to explore options to provide the Office of Energy with powers to examine and publish transportation figures from the WA pipelines. The publication of energy and resources statistics should be consistent with the appropriate management of commercial information and other sensitivities.

The Government recognises the role that alternative and renewable energy can play in Australia's future energy mix, and has a variety of policies including the expansion of the national Renewable Energy Target which will ensure that 20 per cent of Australia's electricity supply comes from renewable energy by 2020.

Recommendation 5

6.19 The Western Australian Government should commence discussions with energy suppliers on the need to balance the market approach with community and industry needs during a period of gas shortage. In particular, the need for improved transparency and accountability from the gas and energy industry during periods of crisis should be addressed. Given the perception of "price gouging" and unfair contracts it is in the interest of the industry and the government to examine increased transparency and accountability during periods of energy supply crisis.

Government position:

The Australian Government notes recommendation five. The Government supports transparency and accountability in the operation of energy markets. As mentioned in its response to recommendation four, the Government believes that the establishment of a permanent Gas Bulletin Board in Western Australia would improve transparency and accountability within the gas industry, particularly in times of supply constraints.

Recommendation 6

6.20 The committee received evidence from several contractors in the south west who were severely affected by the gas shortage. It was reported that Centrelink are limited in the assistance they can provide to independent contractors. The Department of Human Services should undertake an investigation of these concerns.

Government position:

The Department of Human Services (DHS) is responsible for coordinating improvements to policy on service delivery and reform across the Human Services agencies (including Centrelink) from a whole-of-government perspective. Centrelink is the Commonwealth's Service Delivery Agency and it delivers services on behalf of relevant policy departments. Neither Centrelink, nor DHS, determine eligibility requirements for Centrelink payments and Centrelink cannot provide assistance contrary to established eligibility criteria set by policy departments such as the Department of Families Housing, Community Services and Indigenous Affairs and the Department of Employment, Education and Workplace Relations (DEEWR) and accompanied by relevant legislation.

In special circumstances the relevant Commonwealth policy agency may relax some of the normal arrangements for income support payments, but claimants would still need to meet the existing eligibility criteria as set out in the *Social Security Act 1991* to receive a payment. This was the case in the Varanus Island gas disruption.

DEEWR is responsible for labour market and income support policies and programs for people of working age. DEEWR has mechanisms in place to identify instances of redundancies. In each case, the Department seeks to coordinate advice and assistance to affected workers (permanent and contractors) to help them find alternative employment as quickly as possible. In this case DEEWR, Centrelink and State Government reports indicated that there were a low number of redundancies (less than 50) across the Western Australian (WA) labour market as a result of the Varanus Island gas disruption. DEEWR policy provides that all workers (permanent and contractors) who are made redundant and have had their redundancy confirmed are eligible for immediate access to Job Search Support services. Additionally, some of these workers were entitled to access the Government's Productivity Places Program which provides training in industries experiencing skills shortages for eligible job seekers.

In some cases, the Government has provided additional employment services to assist employees in areas where expectations of future employment opportunities for workers in an industry are low or where large scale closures may impact on the local labour market. DEEWR considers the existing services for redundant workers adequately met the requirements of the WA labour market at the time of the Varanus Island gas disruption.

DHS with Centrelink have reviewed the circumstances surrounding the service provided to people affected by the Varanus Island gas disruption. Approximately 100 people contacted Centrelink in the weeks following the explosion to notify that they were financially impacted or had lost their job as a result of this incident. Approximately 50 per cent of those made some form of claim for assistance. Many of the claims were rejected because the claimants were not eligible under the relevant guidelines or policy instruments.

Centrelink operated in accordance with relevant legislation and policy instructions in delivering Newstart payments on DEEWR's behalf. There were several reasons claims for Newstart were not paid:

- Claimants' assets disqualified them from payment ;

- claimants were still employed although they were not earning their usual income, and therefore did not meet the eligibility criteria for Newstart, as they were considered to be under-employed rather than unemployed (their employer was looking for other work for them to perform rather than making them redundant in the tight employment market in this area; or
- claimants were on visas that required their sponsor (usually their current employer) to provide their support when they were unable to work.

Some contact was made by independent contractors who were immediately impacted by the gas explosion and others who were indirectly impacted through flow on effects (e.g. timber carrying contractors). Contractors who were self employed and lost contracts were, in many cases not eligible for Newstart, as they were not unemployed and hence they did not meet the eligibility criteria for that payment even though they had temporarily lost income.

Coalition Senators' Dissenting Report

Recommendation

1.67 Coalition Senators believe the implications of these conclusions are of such gravity that the State Government be called upon to establish a Judiciary or other major independent Inquiry to investigate the aforementioned matters.

Government's Position:

The Australian Government notes this Recommendation. On 9 January 2009, the Commonwealth and Western Australian (WA) Governments jointly announced an independent inquiry into the occupational health and safety and integrity regulation for upstream petroleum operations with a focus on the incident at the facilities operated by Apache Energy Limited on Varanus Island, WA.

A two member expert panel consisting of Mr Kym Bills, the former Executive Director of the Australian Transport Safety Bureau, and Mr David Agostini, a former executive of Woodside Petroleum, conducted the inquiry.

Following a successful Federal Court challenge by Apache Energy Ltd in May 2009, the Terms of Reference for the Inquiry were altered, with two reports prepared on better practice regulation and the role of the National Offshore Petroleum Safety Authority (NOPSA) and improving the interface between NOPSA and the Australian Maritime Safety Authority (AMSA).

The two Reports, *Better practice and the effectiveness of NOPSA* (the NOPSA Report) and *Marine issues* (the Marine Report), were provided to Minister Ferguson on 12 June 2009. The Minister released the reports at the 9th meeting of the Ministerial Council on Mineral and Petroleum Resources (MCMPR) on 9 July 2009.

The two reports are available on the Department of Resources, Energy and Tourism website (www.ret.gov.au).

The Government is considering the recommendations and findings in the two reports and will respond by the end of November 2009, with a view to introducing appropriate legislation in early 2010.