



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

STANDING COMMITTEE ON ECONOMICS

**Reference: Excise Legislation Amendment (Condensate) Bill 2008; Excise Tariff
Amendment (Condensate) Bill 2008**

TUESDAY, 15 JULY 2008

PERTH

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**SENATE STANDING COMMITTEE ON
ECONOMICS**

Tuesday, 15 July 2008

Members: Senator Hurley (Chair), Senator Eggleston (Deputy Chair), and Senators Bushby, Cameron, Furner, Joyce and Pratt

Substitute members: Excise Legislation Amendment (Condensate) Bill 2008, Excise Tariff Amendment (Condensate) Bill 2008 and related matters—Senator Cormann to replace Senator Joyce

Tax Laws Amendment (Medicare Levy Surcharge Thresholds) Bill 2008 and related matters—Senator Cormann to replace Senator Bushby

Participating members: Senators Abetz, Adams, Arbib, Barnett, Bernardi, Bilyk, Birmingham, Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cash, Colbeck, Collins, Coonan, Cormann, Crossin, Ellison, Farrell, Feeney, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Hanson-Young, Heffernan, Hogg, Humphries, Hutchins, Johnston, Joyce, Kroger, Ludlam, Lundy, Macdonald, Marshall, Mason, McEwen, McGauran, McLucas, Milne, Minchin, Moore, Nash, O'Brien, Parry, Payne, Polley, Ronaldson, Ryan, Scullion, Siewert, Stephens, Sterle, Troeth, Trood, Williams, Wortley and Xenophon

Senators in attendance: Senators Cormann, Eggleston, Furner, Hurley and Pratt

Terms of reference for the inquiry:

To inquire into and report on:

The provisions of the Excise Legislation Amendment (Condensate) Bill 2008 and the Excise Tariff Amendment (Condensate) Bill 2008 to the Senate Standing Committee on Economics, together with the following matters:

- a. the impact of the changes on retail prices of domestic gas and electricity in Western Australia, and any consequent effect on consumer prices;
- b. the impact of the decision on the industry generally and on the exploration for petroleum products in Australia; and
- c. the impact of the decision, and the decision-making process, on domestic and international investment confidence in Australia.

WITNESSES

HOWELL, Ms Eve, Chief Executive Officer, North West Shelf Venture 21

**MULLEN, Mr Noel, Deputy Chief Executive, Commercial and Corporate, Australian Petroleum
Production and Exploration Association Ltd 1**

**ROBINSON, Ms Belinda, Chief Executive, Australian Petroleum Production and Exploration
Association Ltd 1**

Committee met at 9.01 am

MULLEN, Mr Noel, Deputy Chief Executive, Commercial and Corporate, Australian Petroleum Production and Exploration Association Ltd

ROBINSON, Ms Belinda, Chief Executive, Australian Petroleum Production and Exploration Association Ltd

CHAIR (Senator Hurley)—Welcome, everyone. I declare open this public hearing of the inquiry into the Excise Tariff Amendment (Condensate) Bill 2008 and the Excise Legislation Amendment (Condensate) Bill 2008. On 18 June 2008, the bills were referred to the Senate Economics Committee for report not before 26 August 2008. The purpose of the Excise Tariff Amendment (Condensate) Bill is to amend the Excise Tariff Act 1921 to apply the crude oil excise regime to condensate produced in the North West Shelf project area and onshore Australia. This has the effect of removing the current exemption of condensate from the crude oil regime. The purpose of the Excise Legislation Amendment (Condensate) Bill is to amend the Excise Act 1901, the Petroleum Excise Prices Act 1987 and the Petroleum Revenue Act 1985 to facilitate setting the condensate price for excise purposes.

Before the committee starts taking evidence, I advise that all witnesses appearing before the committee are protected by parliamentary privilege with respect to their evidence. This gives them special rights and immunities because people must be able to give evidence to committees without prejudice to themselves. Any act which disadvantages a witness as a result of evidence given before the Senate or any of its committees is treated as a breach of privilege. Witnesses may request that part or all of their evidence is heard in private. However, I remind witnesses that giving false or misleading evidence to the committee may constitute a contempt of the Senate.

I welcome our first witnesses from the Australian Petroleum Production and Exploration Association. I thank you for the submission before us. I invite you to make a brief opening statement.

Ms Robinson—Thank you, Madam Chair. We welcome the opportunity to appear before the committee today to not only provide some information in support of our submission but also hopefully correct some misinformation that perhaps was part of the driver for the decision that was taken. APPEA is the peak national body that represents companies engaged in petroleum exploration and production in Australia. Our membership comprises companies that account for around 98 per cent of Australian petroleum production and the vast majority of exploration.

Oil and gas currently accounts for more than 50 per cent of Australia's primary energy needs. I will keep our introductory comments very brief. I would like to touch on three key points. The first relates to the question of risk. There are numerous factors that petroleum explorers and producers must weigh up when making decisions on where to invest their funds. While on the surface many of these factors may appear to be relatively straightforward, such as prospectivity, project economics and the regulatory environment, the overall perception of a country as a place to invest is critical in shaping a range of important exploration and development decisions. We have always prided ourselves as a nation on being a country which is investor friendly. Although we are the highest cost destination for LNG investment supplying the Asia-Pacific region, we have a reputation for a low level of sovereign risk which counterbalances a range of other technical and geological challenges that disadvantages us relative to our competitors.

So while not necessarily the most attractive in global terms, the relative stability of our fiscal framework has been an important defining feature of our desirability as a place to invest. The decision to change the fiscal goalposts is not something that the world expects from Australia and undoubtedly—we are certainly well aware—has raised some investor eyebrows around the world. While the decision on the surface would appear to be largely confined to a small number of taxpayers, the change will have an impact through signalling a willingness on the parts of governments to dramatically shift the fiscal terms after a project is up and running and contrary to agreed terms that form the basis of the project going forward on a lifecycle basis. This introduces an important new element in the suite of factors that an investor must consider in making project decisions.

The second comment that we would like to make relates to industry costs. While there has been a well-documented rise in the price of oil, the industry is becoming increasingly concerned that there is a view that exists that that has simply translated into higher returns or windfall profits. This is simply not the case. In our submission, we presented a number of simple graphs that highlight how costs have dramatically risen in the industry, significantly eroding returns on investment. The industry faces the same challenges that confront the

remainder of the resources sector and industry more broadly in Australia—spiralling costs constraining exploration and development budgets.

The final point we would like to make relates to the general implementation of the measure. As the committee would be aware, the decision has a commencement date of the budget night. In APPEA's view, the complexity of the crude oil excise regime made such a decision very difficult to implement. The number of offshore and onshore petroleum fields covered by the decision makes the technical processes of identifying, verifying and auditing historical production, assuming information actually even exists, extremely challenging. Despite the industry having taken a \$2.5 billion hit, APPEA has been working collaboratively with the ATO in an attempt to streamline the process. But the reality is that these processes require potentially significant amounts of time to implement. On top of this is the fact that it is highly unlikely that existing onshore discoveries of condensate will ever incur an excise liability. Despite this, onshore producers are needing to implement processes to comply with the implementation and ongoing reporting obligations under the regime. From APPEA's perspective, this hardly seems to be a good example of regulatory best practice.

In summing up, we are very happy to present the facts in relation to this measure as we see them to hopefully contribute to a better understanding of the nature of the industry and the structure of the industry, its motivators and its drivers, and the implication of decisions like this on our members and investor confidence. In particular, we hope to see how we might turn this quite unfortunate corner to lock in Australia's oil and gas industry as a platform for future Australian prosperity. Thank you, Madam Chair.

CHAIR—Thank you.

Senator CORMANN—Good morning, Ms Robinson. So you were not consulted prior to this measure being announced in the budget? I am just confirming that.

Ms Robinson—No. We were not.

Senator CORMANN—From your point of view, what would have been best practice for a federal government that was considering such a change in fiscal arrangements in relation to a couple of intensive oil and gas projects like this?

Ms Robinson—I guess we accept that in the end it is government's decision if it is intending to introduce a measure like this or contemplating a measure. I would not be so presumptuous as to say how they should do it. From our point of view, we would have liked some flagging of the measure, some consultation about what the policy intent was or perhaps the release of a discussion paper around it and some general consultation. In the end, an industry association like ours always respects what the policy motivators and objectives of a government are and we will always work with them to try to find ways of doing things that benefit or, to the extent possible, provide some mutual benefit. I think that is to everyone's advantage.

Senator CORMANN—Would you have been able to add some value on the practical implications of the policy measure if you had been consulted prior?

Ms Robinson—I think there is no doubt that we would have been able to assist in making it workable in the same way that we are doing it now post facto.

Senator CORMANN—The reason I am asking the question is that a view has been put that this sort of change cannot ever be agreed through a consultative process because ultimately the positions are so diverse. Can you envisage that if something like this were ever to happen again, and if a future government were to consider a change of this nature, there could be a quasi negotiated process where a change of this magnitude could be achieved in consultation with the industry?

Ms Robinson—Look, I think it is probably best to go back a step or two. 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.

Senator CORMANN—I will pick up on that. The government has put the view that the North West Shelf project is now a mature, profitable project which no longer requires investment support. Firstly, do you agree

with that? Secondly, could you comment on the suggestion that the industry is now achieving increased profits which therefore would justify an increase in taxation?

Ms Robinson—I cannot really, I guess, in all conscience make comments about the North West Shelf project. You will be speaking to Eve Howell, so perhaps it is best to direct the first part of your question to her. I will just make a couple of general points. When we sign off on fiscal terms for any project, it is signed off on the basis of the whole lifetime of that project. There is a very long time when projects of this nature do not make money. It is not surprising if it is 10 or 12 years before some of these projects actually even start to make money. There is no assistance on the way for that part of the graph. The economics of the project are worked out over the entire lifecycle of it. So it is important to be aware of that. Changing the goalposts along the way by definition neglects to take the full cycle of that project into account.

In answer to the second part of that question, no, the industry is not making windfall profits. In fact, if you have a look at the graph that we have included there—there are many other graphs showing a very similar thing from a range of different analysts around the world and within Australia—you will find that we are actually seeing profits in our industry declining. That is a consequence of a number of things. One, this is the gas industry we are talking about. The gas industry is not an oil industry. A gas industry has very long lead times. It is a contract based industry. In other words, if you sign up for a contract for 25 years, you are pretty much stuck with those conditions for 25 years. The price that you receive for your product does not jump around, as with the oil price. The contracts are very long. The capital costs are incredibly high. Once you have sunk \$20 billion, you are pretty well stuck with that investment. As I say, you do not start drawing a profit for many, many years after you have sunk that investment. So that is one reason.

The other reason, of course, is that the oil prices, perhaps ironically, are hurting this industry just as much as any other industry, as are the increase in project costs that all other industries are experiencing. An industry like ours is a very capital intensive industry. You really do not sneeze for under \$10 billion or \$20 billion. Obviously as project costs, material costs or labour costs go up, you are hit comparatively harder than any other industry. So what we are actually seeing is that as the oil price goes up, our profits and the profitability of these companies are going down. That is why we still only have two LNG projects in this country. They are marginal at best and becoming more marginal.

Senator CORMANN—You mentioned the importance of having fiscal arrangements that apply across the lifetime of the project and that sometimes it can be 10 years before a project actually starts to make money. In your submission, you go through the various petroleum resource taxes in Australia. Of course, the arrangement that applies to all offshore gas projects other than the North West Shelf project is the petroleum resource rent tax. That is correct, is it not?

Ms Robinson—Yes.

Senator CORMANN—With that sort of arrangement, it actually would take quite some time before they would start paying that PRRT. Is that right?

Ms Robinson—Yes.

Mr Mullen—That is correct.

Ms Robinson—Usually somewhere after six years or seven years, but that is a very averaged figure.

Senator CORMANN—But if you do not make profit until 10 years, it would be up to 10 years. In fact, that is what the department has told us in evidence at Senate estimates. It is somewhere between five to 10 years and sometimes never. You can confirm that?

Ms Robinson—Yes.

Senator CORMANN—The reason that is important is that the North West Shelf project, of course, because they are under the royalty and excise regime, have essentially been paying secondary taxation on production irrespective of profits. Is that right?

Ms Robinson—That is correct.

Senator CORMANN—What impact will that decision have on future investment decisions in the gas industry?

Ms Robinson—I do not think we want to overstate it. On the other hand, we cannot ignore the message that it has sent to the industry, and particularly our overseas investors. As I said in my opening statement, Australia has traditionally had an excellent reputation around sovereign risk. This is a place that industry likes to do

business. As I say, we do not have many competitive advantages. We are one of the highest cost destinations in the world. We are the highest cost destination for LNG investments supplying to the Asia-Pacific region. For a variety of other geologically challenging reasons, there is not much that we are competitive on. But sovereign risk and the ability to rely on the fiscal terms that are agreed upfront in a project's development has been one of them. So the anecdotal reports that we are getting back from our investors and our member companies is that this is something you might expect in Venezuela or Trinidad, or not even. They never expected to put Australia in that category. Certainly there has been raised a number of concerns about the message that this sends about the predisposition of governments to change the rules as you go along. I guess it undermines the whole idea that once you sign off on these projects, you sign off on the basis of the lifecycle, the whole lifespan, of that project. You do not try and just muck around with your tax regime as and when your prices and your input costs start to vary.

Senator CORMANN—You mention in your submission that this heightened perception of sovereign risk has to be seen in the context that in many jurisdictions there is a need to enter into fiscal stability agreements to guarantee fiscal terms for the life of projects. Can you give us some examples of countries where that is a requirement? That has never been the requirement in Australia, has it?

Ms Robinson—No. I will refer you to the North West Shelf joint venture to answer that question. My understanding is that this is a company decision as to whether or not they require these fiscal stability agreements. My understanding is that they have not been required by companies that do require them in other places in the world. But for quite legitimate reasons, they may be considering to change that.

Senator CORMANN—Are you aware of countries where those fiscal stability agreements are particularly prevalent?

Ms Robinson—No.

Senator CORMANN—You mention it in your submission.

Mr Mullen—I can give one example recently. The recent announcement by the Papua New Guinea LNG proponents indicated that they had struck an agreement with the PNG government to effectively freeze a fiscal regime for the life of that project.

Senator CORMANN—So with regard to LNG, in order to get a project off the ground, investors would need to seek assurances from the PNG government to get some certainty on the fiscal arrangement over the life of the project?

Mr Mullen—Exactly.

Senator CORMANN—But that is not something that you are aware has ever been sought by any project in Australia to date?

Mr Mullen—It is certainly not something that APPEA is aware of. Whether individual project proponents have spoken to the government about that, we are certainly not aware of that.

Senator CORMANN—With the sovereign risk climate in Australia changing as a result of measures like this, it would be something that projects or companies would consider as one of the options?

Ms Robinson—Yes. I think that is true. Certainly that is what our companies are saying to us—that they would be considering requiring it. Their boards would require it. Of course, these are big decisions for their boards. They have to take decisions of their investors of \$20 billion to \$40 billion. They are marginal at best, as I say. So they want to make sure that whatever fiscal terms they have agreed in the first place are locked in for the future of that project.

CHAIR—So, Ms Robinson, let me get this clear. You are stating that because of this decision, Australia is put on a fiscal par in stability terms with countries such as Papua New Guinea, Venezuela and Trinidad. That is what you mentioned. So it is virtually Third World and unstable economies?

Ms Robinson—Again, in the end, that is a decision for companies to take. But what we are hearing from our companies is that a number of companies will require those fiscal agreements to be negotiated. I do not want to overstate that point. It is certainly not something that is widespread in terms of the decision-making that we have seen up until now. But this is something that is just not Australian. This is not the way they have done business before. It is more this uncertainty about whether this is a sign of things to come and, therefore, how we go about reducing that level of uncertainty, creating a more, I guess, robust and confident environment. To do that, they are saying that they will take it to their boards and that their boards are requiring them to enter into these fiscal agreements.

CHAIR—So the only country you know about in the world where this is required is Papua New Guinea? You are saying that this decision by the Australian government puts Australian sovereign risk on the same level as Papua New Guinea?

Ms Robinson—What we are saying is that we know there are a number of countries around the world. I do not happen to have the names of them off the top of my head. I think the North West Shelf joint venture might be able to help you with that because they have done a lot of business around the world. What we are saying is that in some people's minds this has created a level of uncertainty that necessitates an agreement of that nature.

Senator EGGLESTON—What about from the point of view of the purchaser of the gas? For example, I believe we sold gas to China against competition from countries such as Indonesia and the Gulf States very much on the basis of sovereign risk stability and financial stability in Australia. Australia was seen as a reliable country where the gas supply would continue. Would you think that this kind of decision might put that kind of reputation which Australia has at risk itself?

Ms Robinson—No. I think those contracts have been locked in for a long time. There are contractual obligations to be met, obviously. So those contracts are not under any threat. Again, I do not want to overstate this because I think people can scaremonger unnecessarily. But it has just created a little more uncertainty, a little more nervousness. One thing that Australia was really good at and could be relied upon, and that is that reliability, is now looking a little shakier than it was in the past. What we are seeing more, I think, from our Asian Pacific customers is a concern that our projects are not getting up. Australia has been, I guess, criticised on a number of occasions by a number of international analysts, and most recently Wood Mackenzie, as being underweight for LNG. Now that has nothing specifically to do with this decision, but I guess decisions such as this—and not necessarily the specifics of the decision but the fact that Australia can do things like that—just creates even more uncertainty. We are having calls constantly from Japan, China, Korea and others saying, 'When are you going to get these projects up off the ground?', because, of course, they want to make sure that they are in a position to meet their energy security objectives as well. So it just creates yet another—again, not wanting to overstate it—level of uncertainty and concern amongst our customers about the extent to which Australia is serious about exploiting its LNG resources and enabling the rest of the world access to cleaner energy resources.

Senator EGGLESTON—So what you really seem to be implying is that this decision might inhibit future developments and that it will be harder to raise finance for future exploration and the development of LNG projects around Australia?

Ms Robinson—The North West Shelf is taking the hit. Of course, it is going to be up to them as to how they pass that through. But in terms of the broader implications, I guess what I am implying is that rather than continuing to whack the industry through these sorts of measures that I am not sure were thought through particularly carefully, the real issue should be about how we can really exploit our vast gas resources so we can meet the needs of these customers. So this is sort of taking us backwards rather than forwards. What we are wanting to achieve as an industry and as a country is to really exploit those resources for these markets and for the needs and the demand that these guys are calling out for. Instead of sort of feeding the goose that lays the golden egg even just a little bit, we are actually going backwards to that extent. To the end, I guess, if we are going to realise the potential of our energy resources—and here I am talking about gas in particular—particularly through taxation revenue, you can do it two ways. You can either tax the industry as it is at the moment until you paralyse it or you can seek to make some marginal investment so it can continue to produce and continue to lay those golden eggs that everybody wins from, generating much more revenue, bigger projects, more revenue for the country, more wealth for the country and offsetting our trade deficit. So I guess that is the stark choice that I am trying to put in the frame here.

Senator EGGLESTON—Does it reduce our competitive advantage, for example, over a country such as Indonesia, in your view?

Ms Robinson—Decisions like this?

Senator EGGLESTON—Yes.

Ms Robinson—Indonesia is not particularly well renowned for having the most reliable fiscal terms either. It does some peculiar things. That said, they are a much lower cost investment destination and have other advantages that we do not have. As I say, this was our one advantage—

Senator EGGLESTON—That is what I am asking about.

Ms Robinson—that we had over some of these other countries. Again, I guess what we are trying to say is, ‘Look, this is done. It has had an impact.’ I do not want to overstate it. But we can turn that corner and perhaps do things a little more thoughtfully and sensibly so that we all benefit in the longer term.

Senator CORMANN—Well, it has not been done yet. It is still subject to the Senate coming to a view about it, which is why, of course, we are inquiring into this legislation.

Ms Robinson—Sorry.

Senator CORMANN—You talked about passing through costs. In a generic sense, without sort of trying to pre-empt what the joint venture might decide to do, what are the options available to the industry that is impacted by this in terms of offsetting costs?

Ms Robinson—I think you are better placed to put that to the North West Shelf. I guess from—

Senator CORMANN—As far as the industry is concerned.

Ms Robinson—At a more general level, just to understand it, the industry would have contracts. Those contracts cannot be changed. So the choices are—

Senator CORMANN—Long-term ones?

Ms Robinson—So 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 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.

Senator CORMANN—As an industry organisation, have you had any discussions with Treasury or the ATO in terms of the implications of the practical implementation of this?

Ms Robinson—I will let Noel answer that because I understand he has had a number of conversations.

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. We have outlined a number of steps that are required in our submission. Very briefly, the steps are reasonably straightforward, or they seem straightforward verbally, but they are actually quite complicated in a practical sense. All affected producers of condensate are required to effectively immediately provide the Australian Taxation Office with a list of the relevant fields. There is obviously documented information in relation to the application of the 30 million barrel allowances that apply to each field. Obviously the first step is to determine what those fields are. To the extent that that is required, there is a technical process of verification that has to be followed, which would normally be done by Geoscience Australia. 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. In effect, instantaneously, if we were to comply with the law on that night, there would have to have been a categorisation of all the fields.

Once that process is completed—and we are not sure where that process is, but I would be surprised if it was completed by now—there is the next step in the process, which is to define what are regarded as the prescribed production areas. This is effectively the basis on which the excise scales are applied. That applies differently from the field criteria. It applies on an accumulation level. Again, that is a process that has to be worked through by the relevant producers and the Australian Taxation Office. Where people are in the process at the present time will tend to vary on a project by project or company by company basis. 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.

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.

Senator CORMANN—So how will those onshore gas producers and condensate producers pass on their costs? Will that flow through into the domestic gas market into the price of domestic gas?

Mr Mullen—From an onshore perspective, the main costs that will be incurred will be just the compliance cost. The ability of onshore producers to pass on those costs will really be relevant on a case by case basis. We are not aware of the threat to operations.

Senator CORMANN—Can you rule out that they would pass that on in terms of domestic gas prices?

Mr Mullen—We certainly are not in a position to rule anything out. It would really depend on the contractual arrangements. The point we have been trying to make in the submission is that there is a lot of uncertainty at the present time as to what onshore producers are actually required to do. As Belinda has mentioned, we have been working with the Australian Taxation Office to try to put in place what we would call a simplified regime for the onshore producers so that they are not required to go through all of the various processes that perhaps a party would have to go through that were incurring an excise liability.

Senator CORMANN—You would have read the evidence that Treasury gave during Senate estimates. They essentially told us it was pretty straightforward—that they would be just about ready there and then to start applying the new excise on condensate. But from what you are saying, it is much more involved than that, is it not? In fact, the implementation measures are still not resolved as far as you are concerned. When do you expect these implementation measures to be resolved as far as onshore producers are concerned?

Mr Mullen—I will explain why it is complicated. 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. In terms of the timing that would be required for the parties to be in a position to comply with the new regime, the legislation as it was originally drafted envisaged a 60-day implementation period, effectively. We would be very surprised if the parties were anywhere near a position after 60 days to have ticked all of the boxes that would be necessary from a technical perspective to actually be up and running within that 60-day period, if that answers your question.

Senator CORMANN—Well, the specific question is: when do you think that those implementation issues that are still outstanding for both the onshore and offshore projects will be addressed? Perhaps you might also comment as to whether you think it practical that the measure apply from budget night.

Mr Mullen—Well, certainly in terms of when they will be addressed, I would have thought the Australian Taxation Office, in conjunction with Geoscience Australia, should be in a better position to advise as to where they have got to in the process with the field definitions. We are not aware as to the current status of that review. Obviously we are not a party to that decision because it involves all of the individual onshore producers and the North West Shelf participants.

Senator CORMANN—In your recommendation 4, you mention that gas producers may now require higher prices on gas sales to underpin or support project economics. Can you explain that for us, because there is not that much detail in the body of the text. I am wondering whether you can go into a bit more detail for us.

Mr Mullen—I guess there is occasionally a misconception that these sorts of projects—a gas and a condensate project—are separate projects. They are a single project. They are not sort of separate activities. In fact, they are even wider than a gas and a condensate project. What often gets forgotten is that in fact these entities have to spend hundreds of millions of dollars in many cases at the exploration phase of these projects as well. We are talking about a whole lifecycle exercise in terms of trying to sit down and work out what prices are sustainable for project development decisions. One of the interesting facts in Australia is that very few gas projects have proceeded without associated condensate production. The reason for that is that the condensate actually aids the economics of gas. What we call dry gas projects, which are projects that do not have associated liquids, invariably face significant challenges in terms of their economics. So any imposts which affect the overall economics of a project decision will feed through into the prices that participants or project developers require to make those projects economic and to pass the hurdle rates that Belinda has mentioned.

Senator CORMANN—Are you saying that projects will require higher gas prices to get them off the ground, or are you saying that projects will have to recover those costs through higher gas prices once a decision like this one has been made?

Ms Robinson—I do not think there can be any uniform way that a project proponent would work out how to incorporate this into their project. 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?

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.

Senator EGGLESTON—If you are not getting the income from the 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 hurdle rate to begin with.

Senator CORMANN—I have one closing question. Were you surprised that the federal government would put an additional \$2½ billion tax on a project that could actually help reduce greenhouse gas emissions globally by exporting cleaner energy to places like China? Were you a bit confused in the context of the overall public policy debate we are having in Australia at the moment?

Ms Robinson—I guess I am not sure that it was thought of in those terms when the government decided to impose it. I guess we were much more surprised at an impost of this magnitude, with so much at stake with an industry that has so much potential in this country. We can be the number three LNG producer in the world and, in doing so, help the rest of the world move to a much less greenhouse intense future. So it was that, given what was at stake, a decision could be taken with no consultation and thought to the implications of the implementation of the project, where it fitted with an overall energy security policy statement and where it would fit with an overall review of taxation in this country. So I think we had not quite got beyond that surprise before thinking about the impacts on climate change.

Senator CORMANN—Do you think you are an easy tax target for a government looking for some funds to boost their surplus?

Ms Robinson—I guess no-one is going to shed any tears over a taxation hit on a what a lot of people try to continue to reinforce as being big oil. Of course, we are not big oil. We are moderate gas. We could be big gas. So obviously it is easy. I think it was the biggest measure in the budget, at \$2.5 billion. As I say, I do not think people are going to shed any tears over the short term of that. But I do not think it is the government's intention to ignore the long-term benefits of the industry and what it can deliver. What we hope from here on in is that we actually recognise what the potential of this industry is for Australia and start to put in place policies under the energy security banner in particular and climate change that will not only help realise the potential of this industry but will help ensure that this industry can continue to develop and contribute to the economic, social and environmental fabric of the country.

Senator CORMANN—You were actually beaten by the tax on alcopops, which was \$3.2 billion, so do not feel too bad. But why should people shed tears? You are sort of saying nobody is going to shed any tears. I think that people should shed tears because I do think it actually goes beyond just the companies involved. Why do you think people should shed tears about a decision like this?

Ms Robinson—I think they should maybe not shed tears because I am always optimistic. But I guess it is the longer term impact not of this decision but the longer term potential of what this industry can do. There are some economic storm clouds brewing in general. We are seeing a number of industries getting nervous and getting worried and starting to decline. But with Australia's LNG industry, we have enormous resources here. We have more than 110 years worth of gas. Not many countries have a production to reserves ratio of that. It is a very high amount. We are about number eight as an LNG producer. We have the Asia-Pacific region screaming for our natural gas. We still only have two projects here. We can be the third biggest producer of LNG in the world if we get our fiscal and our policy settings right. Not only does that deliver to Australia—and it delivers to Australia through massive tax revenue; we are already contributing \$6 billion in tax revenue, which is up considerably over recent years—but if these other \$100 billion worth of LNG projects that we have on the drawing board at the moment get off the ground, do the maths. You can see that it is a massive contribution through tax revenue, which of course locks in for the government a great source of funds to continue funding the policy objectives that they have around health, education, welfare and all sorts of things. So it is that.

But it is also the trade deficit. We are also declining in our oil production, as most people realise. We were self-sufficient in oil only seven years ago. We were down to 50 per cent last quarter. We have declined another 11.1 per cent. So our oil production in Australia is declining massively. The impact of that, when your oil price is \$140 a barrel, again, doing the sums, is very significant. Five years ago, for the first time in decades, we delivered a trade deficit in oil and oil products. That has been increasing. We are, I think, around \$13 billion deficit in oil products. We are looking at \$20 billion over the next couple of years, which is about the equivalent of our total trade deficit in Australia. If we are going to have a hope of offsetting some of that, LNG just has such a great role to play. I do not want to overstate the impact of this decision, but it does send us a very timely reminder that we do need to get our house in order about understanding the resource we have, what the potential is and how that can start to put Australia in a very, very healthy economic state and deliver green energy to the Asia-Pacific region for the long term.

CHAIR—Thank you. Ms Robinson, you say you do not want to overstate the impact of the decision, but you are saying that it will have a very negative effect on future developments. You are saying that, although there is great demand for the resource, this decision puts at risk the development of that resource. Is that right?

Ms Robinson—I do not think it helps. There are many issues that contribute to the marginality of the LNG project—project costs and so on. As I said to you earlier, we are a very high-cost destination for LNG projects. One of the advantages we have had is a very secure and stable fiscal regime. When companies sign off with government on a fiscal package, there is an absolute expectation that that is going to stand. So what it does now might not threaten future projects. It will probably mean that people are going to want to be very careful about how they underpin those fiscal arrangements. As a number of companies have said, they will be requiring some sort of fiscal agreement that they can show to their boards. Of course, it is the boards in the end and their investors who contribute the funds to these projects. Those investors want to know that the goalposts are not going to be changed halfway through.

CHAIR—With the changing conditions in the price of oil and gas and the demand for oil and gas increasing remarkably—you have talked about how much companies contribute in terms of company tax, so obviously their profits are rising as well—you would not expect that the government would freeze forever a taxation regime, and particularly one of this kind, that was meant to assist an industry starting? You would not want to suggest that we would never as a country say, 'Well, we might be able to use our taxation income, our moneys, in a better way, in a slightly different way in the future?'

Ms Robinson—I will make just a couple of points on that comment. Firstly, the increase in tax revenue is not because of an increase in company profits. The company profits, as I have said and shown in this graph, are actually on the decline. Company returns are on the decline. The increase in tax revenue is a consequence of the increase in the price of oil, which is how the taxes are calculated. That is why we are seeing the increase in the revenue; it is because of the increase in the value of the oil. So, the higher the price of oil, the more tax revenue is generated back to government. That has nothing to do with company profits. Secondly, 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.

CHAIR—You do seem to be saying this is a whim of government. You are saying they did not consider the implications or the long-term effects of it. What evidence do you have to say that this is merely a whim of the government?

Ms Robinson—Because I think of the reasons we have outlined now—that the implementation issues certainly have not been considered. The Senate estimates answers to the questions showed a clear lack of understanding as to how this was going to work and what definitions were to be used. There does not seem to have been any understanding of the differences between excise and royalties and on what basis they are actually applied. There did not appear to be an understanding that the onshore guys were going to be picked up through a whole new process of red tape and compliance that is unnecessary because they are not going to meet the thresholds for payment of the excise in any event. So I think the answers that were received in Senate estimates and the subsequent conversations that Noel has been having on a daily basis with the ATO in trying to make something work that they have no understanding about is testament to the fact—whether government was poorly advised I am not sure—of certainly a very poor understanding within the bureaucracy about what this meant and what the implications were going to be.

Certainly we are aware that in a number of Senate estimates in the past this issue has been raised. Some people have suggested that this should have indicated to the industry and the North West Shelf that this was going to happen. But I do not think anybody would agree that some questions asked in the past in Senate estimates constitutes a full discussion about delivering on a government objective. As I said, I think everyone respects, of course, government's desire to deliver certain things. But, in terms of when it comes to implementation and how you make those things work and what are the best mechanisms for delivering on that objective, I think when you are hitting an industry for \$2½ billion, you might reasonably expect just out of courtesy, if nothing else, some sort of discussion about that.

Senator CORMANN—Do you think a \$2½ billion estimate is an accurate estimate in light of the—

Ms Robinson—I cannot say that.

Senator CORMANN—So it could well be more?

Ms Robinson—I cannot say that.

Senator CORMANN—Because you have just mentioned how there was a lack of understanding in Treasury and the ATO as to the way this measure was to be applied. The modelling they would have used to estimate the revenue from it would have to have been somewhat misinformed, would it not?

Mr Mullen—We are unaware of the modelling that was done. Certainly, as we have gone through the first two months of the process since the announcement was made, we are still grappling with the definitions.

Senator CORMANN—Let me ask a question here. You have said today in evidence—and I think also in your submission—that there was a lack of understanding of how this measure was going to be applied practically. So how can you actually model the revenue flows from a measure if you have not got a clear understanding of how it is going to be applied?

Mr Mullen—I think there were a series of assumptions that the measure was easy to implement. That clearly is not the case when there are a series of steps that have to be followed in terms of definitions and there are a series of steps that have to be followed both now and on an ongoing basis in relation to compliance.

Senator CORMANN—Is there the potential that this tax measure or this excise on condensate will lead to revenue to the Commonwealth in excess of \$2½ billion?

Mr Mullen—Depending on how the definitions are interpreted by the government regulators, that is quite possibly the case.

CHAIR—I would like to move away from the implementation. I think you were saying that it was more the long-term policy issues that the government had not considered properly.

Ms Robinson—No. We are not saying that they had not considered them. It is whether they are aware of processes in place regarding the long-term issues around energy security from a policy perspective. We know there are processes in place to look at that. We know there is a process in place through the Henry review, for example, where a number of these issues will be looked at. As I said, this has been a little unfortunate. We hoped that this issue would have been picked up through those processes or in a more holistic look at what it is we are trying to achieve from an energy perspective in Australia. I guess now we are saying, 'Well, those processes are still going on, so while we would have preferred and thought that that was the more appropriate way to address an issue like this, we would now like to see if we can't put a bandaid over it and work through

those processes to see whether, first of all, we can identify what the potential is of the industry for Australia and realise how we can do that through those good processes.'

CHAIR—It seems to me that as long as companies are making rolling contracts, you are asking that their conditions around taxation and government tax take are frozen.

Ms Robinson—I do not think we are suggesting that tax be frozen because in fact we would like to see some changes come through the Henry review and the energy policy process. I guess what we are saying, though, is that when there are some changes being contemplated of this magnitude, we would expect consultation and we would expect some sort of an issues paper. We would expect—I do not think it is unreasonable—to have demonstrated that there was an understanding of what this would do, how it would be implemented and what the implications were going to be. Of course governments will want to change things. We are talking \$2½ billion here for one project. When there is something of that magnitude, I do not think it is unreasonable to expect there to be consultation.

The second point, though, is that that arrangement has been confirmed by all governments year on year on year. All governments have given a commitment to the North West Shelf that if there were to be changes, they would be fully consulted. So it is the way this has been done. It could have been done better. We would like to not see it be done, something like that, in the same way in future. I think it is unreasonable.

CHAIR—Is that not a bit of a shift in position? So it is not so much what was done but the way it was done? I think you were implying before that this would have a dramatic effect on the way governments are seen. But you are saying it was just the way it was done.

Ms Robinson—I do not think I actually ever used the word 'dramatic'. I said I did not want to overstate it. I said that there is no doubt that the comments I am getting back from my members is that it has raised their investor eyebrows. This was a country where they never expected a decision like this to be taken in the way it was taken. That has therefore made a number of people a little uncertain and a little uncomfortable—more uncomfortable than they would otherwise be in an environment where we are already struggling to get these LNG projects off the ground.

CHAIR—There have been other industries that have gone through dramatic changes—tariff reductions. They have not been protected over the years. Why is the oil and gas industry needing to be protected more than, say, the textile and—

Ms Robinson—Can you tell me how we are being protected? What is the protection that this industry is receiving?

CHAIR—Because there is not the same excise on condensate as there is on other—

Senator CORMANN—Like on whom? Who else is paying an excise on condensate?

Ms Robinson—Who else pays three loads of tax? We are talking about the removal of an exemption from a tax. That is very different to the removal of a subsidy or a tariff. This is one of the only industries that is not subsidised—

CHAIR—You are asking to be protected from changes to tariff or excise structure, as I understand it.

Ms Robinson—No. We are not asking to be protected from anything. In fact, I will make the point that we are probably the least protected industry in Australia. Increasingly, perhaps because of that, I think there is a nervousness that people are starting to see this industry as nothing much more than a cash cow. We are already stagnant. Even in this environment we are stagnant as an LNG country. In that environment, we are going to see paralysis and decline rather than realising the fantastic opportunities we have. In terms of protection, I will restate the point. I do not think we are seeking protection from anything. We are saying that if there has been agreed a fiscal arrangement to underpin a \$25 billion project and there is a guarantee by governments that that will not change without consultation, just out of courtesy we would expect that that guarantee would be met. That is what we are saying.

Senator CORMANN—That is the end point, is it not? What you are looking for is not to be protected from any change. You want some fiscal certainty for the life of a project, ideally. If there is going to be some change, government is going to go through a process with the industry which is going to be impacted to discuss the implications, the reasons and the policy context for it. Is that what you are saying?

Ms Robinson—Yes. I am saying a couple of things. Firstly, if there is fiscal certainty which is given to a project, there is a guarantee by subsequent governments that that will not be changed without consultation. We would expect governments to respect that. Secondly, there may be changes that do not necessarily affect the

fiscal terms of a project. The best way to deliver on those, given that industry will always work with governments to achieve what it is that governments are seeking to achieve, is to consult us. We would work with them, particularly given the incredible potential of this industry to underpin the long-term wealth of Australia.

Senator CORMANN—I want to go back to the question asked by Madam Chair.

Senator EGGLESTON—I just want to establish one thing. One of the so-called facts that we hear about this is that the exemption from any kind of revenue raising from condensate was a measure to help establish the North West Shelf gas project. Yet from what you are saying it was never conceived, in your understanding or the industry's understanding, as a measure with a limited life expectancy. It was assumed to be a permanent measure.

Ms Robinson—That is right. That is absolutely true. I think the paper that we have attached to our submission that was done by the Parliamentary Library underscores that. Otherwise you would have an agreement and there would have been nothing to stop the negotiations in that to say, 'Well, while ever oil is above a certain price or gas is above a certain price, this is the arrangement that will apply.' As I said, that project did not make money for 10 years. There were no sudden changes without any consultation to assist that project in those 10 years when it could not turn a buck. So those things are negotiated on the basis of the full lifespan. It is only the last couple of years that the project started to make some money.

Senator EGGLESTON—Thank you. I think that is an important point.

Senator CORMANN—I just want to go back to some questions by Madam Chair you answered in relation to whether government thought through the policy implications enough, leaving aside the practical implementation issues. Do you think the government properly considered the impact on Australia's sovereign risk profile as an investment destination? Do you think the government properly considered the potential for the gas industry to contribute to addressing the challenge of climate change? Do you think the government appropriately considered the implications of this measure in the context of ensuring energy security for Australia?

Ms Robinson—I cannot answer that. What may be our motivators are not necessarily government's motivators, and that is how it should be. I guess what we are saying is that now that we do have these processes in place—and they are good processes and we commend the government for introducing them—today is the start of that process as far as we are concerned about informing not just government but all stakeholders about the structure of the industry and what it can do and what it can deliver on a long-term basis and so on. I guess we would like to work through those processes to do that. The government has committed to do that. So I am not going to say what was in their minds and what they did and what they did not think and how they did and how they did not. It is just not—

Senator CORMANN—You made the observation yourself on behalf of the industry that this did not appear to be properly thought through.

Ms Robinson—From our perspective, it did not seem to be, but I am not going to say what was in or was not in the head of government officials.

Senator CORMANN—Okay. But you would have a vision for what you think the industry can contribute. I will ask the question again. Do you think it is a good decision in the context? I think you have answered it in different parts. I am just trying to draw it together. Do you think that this decision by government is a good decision in the context of ensuring that Australia has an attractive sovereign risk profile as an investment destination? Do you think it is a good decision in the context of our contribution as a nation to addressing the challenges of climate change? Do you think it is a good decision in the context of meeting our challenges and making our contribution to meeting the challenges of ensuring energy security?

Ms Robinson—From our perspective, there are ways that we think we could work with government to deliver on all of those things.

Senator CORMANN—Despite this?

Ms Robinson—Despite this.

Senator PRATT—You made a statement, Ms Robinson, about the decrease in oil and increases in gas production. Clearly, we are in an environment at the moment where the fuel bases that we look to as a society are rapidly changing, and that leaves some great opportunities for your industry. In turn, as a result, the tax

bases that government derives from those fuels need to be reviewed and looked at. So you accept that it would be quite a natural thing for the government to be looking to review the tax base as it relates to condensate?

Ms Robinson—Not necessarily. I think we need to look at tax measures as they relate to large gas projects against the backdrop that we cannot get them up and that they are marginal at best and becoming more and more marginal as time goes by. That is where I think we need to look at the fiscal regime that applies.

Mr Mullen—I will add to that. In a way, what we are saying is if those reviews are going to be undertaken, they need to be undertaken on an informed basis. If, for example, there are views about the condensate excise regime, they need to be tested against the totality of the fiscal regime that confronts the industry. So it is not just condensate excise. There are other regimes that apply to other producers. So it needs to be in context.

Ms Robinson—I think it needs to be in a context. As I said in my opening statement, even geese, I guess, that lay golden eggs have to be fed. 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. We spent two years developing an industry strategy with government officials. It has 65 different actions in there that form the basis of how industry, working closely with government, can grow particularly the LNG in Australia to that end, where we are the third largest LNG producer in the world. It seeks to be able to triple the export of those industries. The tax regime plays a part in that.

Senator PRATT—You made some quite strong statements with regard to consultation. Irrespective of the extent of consultation undertaken, surely a measure like this is one that naturally your industry is going to be in a position to oppose. Is that true?

Ms Robinson—A measure like this, yes. We would oppose anything, of course, that runs contrary to what had been the fiscal agreement between two parties in the first place. But what we could have done is understood what it was that government wanted—\$2½ billion—and we could have perhaps worked out how that might be achieved through some other mechanism. But at least we could have been informed so everyone could be confident the decision was taken on an informed basis.

Senator PRATT—Hypothetically, how would you be advocating a figure such as \$2½ billion be raised through tax?

Mr Mullen—I think if we wanted \$2½ billion of extra resource tax revenue, we would love to see two or three extra LNG projects developed in Australia.

Ms Robinson—Exactly.

Senator CORMANN—Hear, hear!

Ms Robinson—For every two new trains of LNG, that will deliver \$40 billion of tax revenue back to the government over the 27-year life of that project.

Senator PRATT—What you are advocating are—

Ms Robinson—Growing the industry is the key.

Senator PRATT—What kind of position are you advocating through the Henry review other than—

Ms Robinson—We are not advocating anything yet. We will be leaving that until we develop our positions through the consultation process. But certainly we will be referring back to our industry strategy. We have been very transparent, given that that was developed with CSIRO, Geoscience Australia and government officials across the portfolios as well as ourselves. That will form the basis, and will continue to form the basis, of our industry advocacy over the next decade, because it has as its primary goal to grow Australia's LNG industry. That has to be in everyone's best interests—not paralysing it, but growing it. It provides, of course, the cleaner energy that the Asia-Pacific region is calling out for. The key challenge for us jointly is to get those LNG projects up. I just do not want to underestimate the challenges of that. I know there is a lot of feeling around about these windfall profits that the industry is making. It is just not true. I guess we are looking forward to a number of these processes so we can provide and inject information that will provide a much clearer, informed picture of the status of the industry.

CHAIR—Thank you, Ms Robinson and Mr Mullen, for your evidence this morning.

Ms Robinson—Thank you for the opportunity.

[10.07 am]

HOWELL, Ms Eve, Chief Executive Officer, North West Shelf Venture

CHAIR—I welcome to the table the representative from the North West Shelf Venture.

Ms Howell—Thank you, Madam Chair. Thank you for giving me this opportunity. Madam Chair and members of the Senate Economics Committee, today I am representing the seven North West Shelf Venture participants. As you are undoubtedly aware, the North West Shelf Venture project is Australia's largest resources and infrastructure project, with capital expenditure over almost three decades totalling \$25 billion and with currently more than \$10 billion, either committed or under consideration, for additional investment. Royalties have been paid every year since the project commenced in 1984. In 1977, as our project was being conceived, the federal government acknowledged the long-term nature and difference of gas projects from oil projects and entered into a partnership of assurances with the North West Shelf Venture participants, leading to a stable fiscal regime which remained in place for over 30 years and helped to establish Australia as one of the lowest sovereign risk nations. We were therefore surprised and concerned that the government risked this reputation and did not seek to consult with the North West Shelf Venture participants in its decision to remove the excise exemption on condensate in the recent budget measures contained in the Excise Legislation Amendment (Condensate) Bill 2008 and the Excise Tariff Amendment (Condensate) Bill 2008.

Our submission raises a number of concerns about the provisions of the bills. In particular, we submit that the impact of the bills has not been adequately considered. Fiscal certainty and the availability of competitive fiscal terms are still among the most important factors which enable continuing investment in the gas industry, particularly in the current global environment of rising development costs and a rising Australian dollar. Add to that the long-term nature of gas projects compared to oil projects, the billions of dollars of ongoing capital investment required and the length of time to achieve a positive return on the investment and you begin to see that taking an investment decision to embark upon developing significant gas reserves requires a whole-of-life project assessment and a fiscal regime that is sensitive to these variables.

The North West Shelf Venture participants do not shirk from their corporate responsibility to pay their fair share of taxes. In fact, over the last 10 years, the gas business has contributed more than \$6½ billion in royalties. In addition, of course, there will be company taxes. What we do require is fiscal stability which allows us to make these investment decisions with confidence, ensuring that there is an internationally competitive framework for gas projects. What we need is a bipartisan understanding and partnership where important fiscal decisions are made with full consultation.

We believe that the government has an enormous opportunity to restore Australia's reputation and confidence for fiscal stability. In this respect, the North West Shelf Venture participants welcome the Henry review of taxation and the specific inclusion of gas in the scope of that review. The North West Shelf project hopes to continue to generate significant economic benefit to the nation and to continue to support Australia's energy security. Thank you.

CHAIR—Thank you, Ms Howell.

Senator CORMANN—Thank you, Ms Howell. The North West Shelf project for a long time has been described as a \$12 billion project. In fact, one of the arguments the government has used to justify this new tax is that the project is now mature and profitable. Hence, you can cope with an additional \$2½ billion tax. In your submission—and you have mentioned it this morning—you mention that total capital investment has been nearly \$25 billion over three decades, with \$10 billion in further investment underway or under consideration. Can you give us a bit of a high level timeline on when those commitments were made in terms of additional capital investments? What additional capital investments are you currently considering or envisage for the future and what sort of implication would this budget measure have had if you had been aware that this was around the corner?

Ms Howell—Yes. I will try and do that as best I can. From a time line point of view, the project was first discussed in 1977. Of course, even prior to that, there had been investment in the drilling of the exploration wells and all the seismic work that led to the discoveries that eventually led to the project. But the serious discussions started in 1977 to get this project up. The initial phase was the domestic gas phase, where we built the domestic gas plant—the North Rankin platform and the pipeline to shore. That was an investment of around about \$3 billion to \$3½ billion at the time. Alongside that, we were moving ahead with our LNG projects. LNG started in 1989 with the first trains. Throughout that we have progressed from a two-train LNG

development through a third train in the 1990s and then a fourth and a fifth train this century. It is those developments and a number of enhancement projects that constitute the first batch of funds.

More recently, you would have seen approximately three months ago we made an announcement of the redevelopment of the North Rankin field. This is a \$5 billion project which we sanctioned earlier this year and is now moving ahead. We are looking for the future at the development of 14 much smaller fields. The project started with the development of its big fields. We have a number of small fields that we are looking at developing to meet contractual commitments out in the future. We have not made an investment decision on those as yet, but those are being considered at this point in time.

Senator CORMANN—So you say to meet contractual commitments. Are you saying that those are additional capital investments to maintain production, or is that to expand?

Ms Howell—The majority of it is to maintain and meet our existing commitments. There is some small area for growth as well.

Senator CORMANN—So how much would you have been investing over the last five years and into the next five years? This decade, looking five years back and five years forward, what would be your—

Ms Howell—In the last five years we have train 5, which is just about to be completed. That is a \$2.6 billion investment. We are just about to complete our Angel gas development. That is a \$1.6 billion investment. In that five-year period, we would have also seen expenditure associated with train 4. Train 4 came on production in 2004-05. So there would have been approximately \$5 billion in the last five years. We are looking at another \$5 billion to \$10 billion in the next five to 10 years.

Senator CORMANN—So they are big figures. They are obviously big final investment decisions. Would this budget measure have any impact on people who had to make those investment decisions if they had been aware of it?

Ms Howell—Obviously when we look at investments of this type, we model the commitment. In that model we have to include obviously the costs—the operating costs and the project costs—and we have to model the imposts. Any additional impost has to be included in that model. We have to consider that when looking at our rate of return on the project.

Senator CORMANN—But at the time when you made those recent investment decisions, your assumption would have been that the fiscal arrangement that was in place would continue into the future?

Ms Howell—That is correct. The fiscal arrangement has been in place for 31 years.

Senator CORMANN—So you had a reasonable expectation that it was going to continue?

Ms Howell—Going to continue.

Senator EGGLESTON—It was not regarded as an incentive in that case to set up the project and to cover you in the early years? It was regarded as a permanent feature of your financial agreement with the government?

Ms Howell—That is correct. It was regarded as a complete fiscal assurance.

Senator EGGLESTON—And that would include the expansion of your project?

Ms Howell—That is right.

Senator CORMANN—But the CEO, on the day after the budget measure, actually went to the stock market and made essentially a pretty assertive statement, I thought, which was that this was not in fact a loophole but part of a negotiated fiscal arrangement and that Woodside was considering its options. Have you done some further work on that assertion? Have you come to any conclusive view?

Ms Howell—We are doing further work. We have not come to a conclusive view.

Senator CORMANN—When would you expect to come to a conclusive view on this?

Ms Howell—I would not like to commit to a specific date.

Senator CORMANN—But are you still pursuing that sort of thought?

Ms Howell—Yes, we are. We would hope that that would be part of the further debate as we go into the Henry review.

CHAIR—Because the word ‘guarantee’ was used by an earlier witness. There is no written guarantee that the fiscal situation would remain the same.

Ms Howell—I am not aware of a legal agreement. However, there were assurances. Those assurances were repeated several times over the course of the 31 years. I think probably the important thing is that over 31 years with different governments and changes of governments those assurances have continued. The very fact that we have seen 31 years of fiscal stability I think not unreasonably has led us to assume that this was something that would continue.

Senator CORMANN—Have you made an assessment of your liability as a result of this measure?

Ms Howell—The assessment of the liability is quite complex. Of course, one of the most moveable things in there is the oil price. So any forecast is based on having a crystal ball on what the oil price is doing.

Senator CORMANN—Can you talk us through how you are calculating your liability and on what basis? You have already said it is not easy to calculate. Can you talk us through the methodology that you have to use or that you are using?

Ms Howell—I do not really want to go too much into the implementation. There are still some questions. I think Ms Robinson referred to the actual implementation, which is still not entirely clear in terms of exactly how this will be implemented. Obviously we can make some assumptions, as others can make some assumptions. But there is a great uncertainty which relates to the price of oil and trying to forecast that in years to come.

Senator CORMANN—What sort of discussion and information flow has there been between the joint venture and the federal government since the budget measure? Have you been involved in discussions on the practical—

Ms Howell—We have had some preliminary discussions with the tax office at their bequest.

Senator CORMANN—So you have been providing them access to data?

Ms Howell—We have had some preliminary discussions.

Senator CORMANN—So, based on your data, do you believe that the \$2½ billion forecast in the budget is accurate?

Ms Howell—Well, as I say, it very much depends on what oil price one applies in the model and what assumption is made as to the individual fields that will be subjected to the excise.

Senator CORMANN—Have you got any indication that the revenue to government as a result of this measure could actually be more than the \$2½ billion?

Ms Howell—I really would not like to comment. As I say, the forecast is based on the next five years. There are so many variables in there. I think really in our submission it is not the quantum that we are trying to focus on; it is the manner in which the decision has been made, the message of uncertainty that it sends to the project.

Senator CORMANN—But the quantum would become an issue at some point, would it?

Ms Howell—Of course it becomes an issue. I am not trying to minimise billions of dollars of commitment. But what I am saying is that it is highly dependent on the oil price. I do not think anybody could predict what the oil price is going to be over the next five years.

Senator CORMANN—Let us just leave the oil price aside and assume that it is where it is. Treasury has told us in evidence to the Senate estimates process that it is a very simple equation. They have forecast that revenue will be \$2½ billion. Is that your estimate? You would have to make an assessment. All of the partners are publicly listed companies. Your joint venture brings them all together. These things have got implications for those companies.

Ms Howell—Yes. Of course.

Senator CORMANN—Surely you would have to go through a proper process to assess the liability you are exposed to. As much as you say you are not concerned about the quantum, \$2½ billion is one thing. If it was \$4 billion, surely it would be another. What is your understanding?

Ms Howell—I agree that we would do that. Remember that I am representing the total of the venture here. All of our individual participants would take their own view on this, so we would not have necessarily a collective view. All oil and gas companies have their own views on future prices. They will have done their individual calculations.

Senator CORMANN—But you cannot actually rule out that this additional excise on condensate will lead to more than \$2½ billion of revenue for the Commonwealth?

Ms Howell—I cannot rule it out, no.

Senator CORMANN—Are you exploring all the options to offset that additional cost at the moment?

Ms Howell—We obviously recognise that this will have an impact on the rate of return of the project. We are in general in our gas business, both from a domestic gas point of view and an LNG point of view, already in long-term contracts. We will honour those contracts. A contract is a contract. Where we do have to bring this into consideration is in future investments and in new contracts, where we obviously need to reach a particular hurdle rate for those investments.

Senator CORMANN—When you say long-term contracts, how long do those contracts run for?

Ms Howell—They are variable. Some of our early energy contracts were for 20 years. We have other contracts for shorter periods than that, but they are all for many, many years. They are long long-term contracts.

Senator CORMANN—Essentially because the commercial viability of the enterprise is so linked to long-term contracts, other than the capital intensive nature of your industry, it is probably one of the reasons that you would be looking for long-term fiscal stability.

Ms Howell—Absolutely, yes. In general, as I say, the terms of the contracts are fixed and we have to honour them.

Senator CORMANN—So what are the options available to you to offset the cost? You have ruled some options out because you are linked into long-term contracts. But what options do you have available to you to offset those additional costs?

Ms Howell—Well, as I said, obviously in any new contracts we might be negotiating we will have to bring this into consideration and on any future investments.

Senator CORMANN—I think Ms Robinson mentioned earlier that Australia internationally has a higher cost structure for its gas production compared with our competition. How is this going to impact on our international competitiveness as an investment destination?

Ms Howell—I guess it is not helpful. It is another additional impost. Australia in the Asia-Pacific region is an expensive place to do business. Labour costs are very high. It is remote, so bringing in equipment, bringing in rigs and bringing in barges et cetera—to bring in a lot of large kit—makes it a very, very expensive destination.

Senator CORMANN—So essentially we have a higher cost structure for our gas production compared with others?

Ms Howell—Definitely in the Asia-Pacific region.

Senator CORMANN—So we are cheaper than other destinations, are we?

Ms Howell—Sorry?

Senator CORMANN—So we are more cost effective than others? Where do we sit? Who is more expensive than we are?

Ms Howell—In the Asia-Pacific region, Australia is the most expensive.

Senator CORMANN—How would you then pass on the additional \$2½ billion cost? Would it go into the domestic gas market?

Ms Howell—For us now with this new measure, as I say, I do not think you can partition between one or the other. We have a complete gas business which encompasses domestic gas and export gas. We will just have to consider our future investments and our future contracts regardless of whether they are domestic or international.

Senator CORMANN—But we are already high cost. You are locked into long-term contracts, so on the face of it there do not seem to be many options available to you. Can you give us an assurance that there will be no increase in the price of domestic gas as a result of this measure?

Ms Howell—What I can say is that our current domestic contracts are in place and will be honoured. We in general have no ability to pass on this additional impost. However, this will be one of a number of factors that are currently impacting domestic gas prices, including the supply-demand balance.

Senator CORMANN—So any future domestic gas contracts obviously would be considered in the context of your overall cost base?

Ms Howell—Or any additional investment specifically for domestic gas.

Senator CORMANN—What are the implications of this excise on condensate in terms of the cost of financing future capital investments? I am sort of looking here at whether it will drive up the cost of debt and whether you will have to take into account additional risk factors because obviously our sovereign risk profile is changing.

Ms Howell—I think one factor perhaps has not been considered or has not been aired this morning. We talked about packages or fiscal certainty packages. We talked about different countries and so on. I think one of the things is we talked about the requirement of company boards to have that sort of assurance. But I think the other thing that is really important is the banks. These sorts of projects require major financing from banks. If the banks are not convinced that there is stability over the life of some of these big projects, that is going to flow through to a higher cost of debt.

Senator CORMANN—You make an interesting point there. What sort of long-term assurances about fiscal arrangements will you have to seek from government in the future in light of the attitude that banks would have and in light of the attitude your investors would have? Would you have to ask for fiscal stability agreements in the future with your projects in Australia?

Ms Howell—What we do want to do, as I said earlier, is we really hope that we can engage with government through the Henry review and really look at projects on a very holistic basis. We hope that out of that we can perhaps come out with more certainty and an ability to get Australia back to where we need to be.

Senator CORMANN—In terms of fiscal stability and long-term certainty and a long sovereign risk profile?

Ms Howell—That is right. That is really our hope. Perhaps this decision and the nature of this decision actually allows us to put a little bit extra focus through the Henry review. Let us make sure that we can restore Australia to being right up there as a country that is recognised as a place to come and invest.

Senator CORMANN—So have you had any indications from investors or from joint venture partners that you will need to seek clear assurances on the long-term fiscal framework for projects of this nature, such as in the context of future investment decisions?

Ms Howell—Our joint venture partnership companies obviously have interests in other projects, not necessarily exactly the same group. I am sure that this will be a consideration, as I say, through the discussions with the Henry review.

Senator CORMANN—So have any of your joint venture partners communicated to you their concerns about sovereign risk implications for, for example, our trading relationship with Japan?

Ms Howell—The joint venture as a whole is obviously, yes, concerned about sovereign risk, as we have stated in our joint submission.

Senator CORMANN—I want to go back to the question of your analysis or the modelling that you or your joint venture partners have done on the impact of this measure on the North West Shelf. Have you done any comparative analysis to assess what your fiscal position would have been if you had been subject to the PRRT arrangements, as are all the other offshore gas projects? I will just put that question in context. A senior official from the Department of Resources, Energy and Tourism in Canberra has given evidence at previous Senate estimates hearings and confirmed it at the recent Senate estimates hearings looking at this budget measure. He took the view that the liability for the project over the life of the project would have been the same had PRRT applied. Of course, this would lead me to this question: are you now worse off as a result of this additional tax compared with the other offshore gas projects?

Ms Howell—At this point, I do not know. It is a very, very complex calculation to go back and rework different regimes from day 1. They are very different regimes. But I guess part of our reason for suggesting that perhaps there should be a delay in the implementation or a consideration and a halt to this is precisely to work through that.

Senator CORMANN—You are currently working through this. So you think it is conceivable or there is the potential that the North West Shelf will now be worse off compared with other offshore gas projects on the PRRT arrangements?

Ms Howell—I do not know.

Senator CORMANN—Is it conceivable?

Ms Howell—I do not know the fiscal arrangements for other projects either. There are not many energy projects in Australia.

Senator CORMANN—Well, you have asked the committee to consider deferring a decision. The reason you have given why you want us to defer the decision is that you want to keep working through that analysis to assess this. Have you got any prima facie case? It is a pretty serious recommendation, asking us to defer this. You would have to give us some indication as to whether you believe there is a prima facie case.

Ms Howell—Yes. 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.

Senator CORMANN—So you are asking for this decision to be deferred. By when do you think you will have completed your analysis in relation to this?

Ms Howell—Well, I think this goes back to the whole issue of consultation. I do not know what work the government has done because we did not have a discussion or consultation. What we are saying is that we would like to try and understand and have that debate as to why this does result in a level playing field. As I say, it is difficult for us because we know our own project but we do not fully understand other projects. So it is very difficult for us to say whether this really has put us on a level playing field or not.

Senator CORMANN—So are you asking for an open-ended deferral, or have you got some sort of indication as to when this sort of work could be completed?

Ms Howell—No. We are not asking for an open-ended deferral. We would like to have the opportunity to engage with government and to engage with Treasury to work through these issues, which we believe should have been worked through before this announcement was made.

Senator CORMANN—So over the last two months that has not yet happened, has it?

Ms Howell—No.

Senator CORMANN—Has there been any discussion on these sorts of issues over the last two months?

Ms Howell—We are currently seeking a meeting with Treasury.

Senator CORMANN—So you have not had a meeting with Treasury since 13 May?

Ms Howell—No.

Senator CORMANN—That is interesting. I have asked the question before. I think Senator Pratt also touched on it. There is a view that is put that really it is very difficult to have consultation on an additional tax because of course you are going to say no. How would you have expected the federal government to deal with the change of fiscal arrangement with this sort of impact? What would have been a best practice process from your point of view? Would you have engaged in that process constructively?

Ms Howell—Absolutely. I think it goes back—Ms Robinson referred to this—to the fact that we have had since 1977, over 31 years, repeated reassurances from both sides of government that this regime would continue. We have also had assurances, though, that should there be any consideration of changes, we would be consulted.

Senator CORMANN—Can you just talk us through—

Senator EGGLESTON—Is that in writing at all?

Ms Howell—I am uncertain of that at this point.

Senator EGGLESTON—If it was, would you be prepared to table such documents for the committee?

Ms Howell—I guess I have difficulty answering that question. I was not around when a lot of these documents were generated.

Senator CORMANN—But if you had to sort of put out a best practice process for an orderly transition from one secondary taxation arrangement to an amended secondary taxation arrangement, can you talk us through what you would have thought would have been a best practice process.

Ms Howell—I am not in a position to be telling the government how the process should work. They are far better qualified on these issues than I am. But I do believe that we would expect there would have been some

consultation, some discussion and some debate not only with the joint venture partners and specific to this project but also with the industry associations.

Senator CORMANN—Thank you very much.

CHAIR—You were saying that there had been assurances by government that the regime would stay the same. Were you talking about at ministerial level or in discussions with the ATO and Treasury?

Ms Howell—Both. At ministerial level as well.

CHAIR—I think you referred to this yourself when you were talking about the Henry review. Obviously the excise regime with condensate is one way to assist investment in the industry. But there may well be others that might operate better and be a better regime from at least the point of view of government, if not the industry. Is that what you were referring to when you were saying you are working through the Henry reforms?

Ms Howell—That is right. That is correct. As I said before, we are not averse to paying taxes and providing a return to the community. We understand the necessity of that. We would have liked to have seen a more holistic assessment of the gas industry, bearing in mind all sorts of factors, a number of which have been touched on this morning.

CHAIR—I appreciate that you are still in discussions and that the Henry review is indeed underway now. Are there any other priority areas you are thinking about where the government may provide the sort of assistance that is required to ensure investment and stability in the industry?

Ms Howell—Well, I think the important thing is that all things are considered in that debate. But there are a number of measures, I think, that the industry associations have been suggesting. This morning Ms Robinson touched on depreciation on some of these large projects. I guess there are a lot of ways of skinning a cat. We would just like all of those things to be considered in a total package instead of one particular item.

CHAIR—Do you compare yourself to another industry? Do you compare yourselves, for example, to the minerals and mining sector, which also in some cases—I am thinking of the Olympic Dam development in my own state—has huge infrastructure costs, difficult geology and geography? Do you compare yourself to that kind of operation, or do you look to other areas?

Ms Howell—Not directly. I think there are actually quite a lot of differences between hard rock mining and the petroleum industry. Although there is the enormous scale of some of the mining projects, the scale of expenditure is not as large as on gas projects. Even at the very early stages—say, at the exploration stage—the cost of the exploration drilling that is required to determine an ore body is nothing compared with the cost of oil and gas exploration, which is in the hundreds of millions of dollars just to drill single wells. It is a very different cost base.

CHAIR—So you do not see that there is any immediate comparison with other industries?

Ms Howell—There will always be some things in common, but I think there are enough things that are different that you cannot make a direct comparison.

Senator CORMANN—Just on that difference, I wonder whether we can have a short conversation about the difference between your project or the North West Shelf project, which is subject to an excise and royalty regime, and an offshore project that is subject to the PRRT regime. You have essentially accepted as part of your side of the bargain paying excise and royalties on production from the start of production irrespective of profits. Is that right?

Ms Howell—That is correct, yes. We started paying our royalties from 1984 and have paid for many years when the project was not profitable.

Senator CORMANN—Whereas for a project such as Woodside's Pluto project, the Gorgon project or other offshore projects which are already subject to the PRRT arrangements, it can be up to 10 years, and sometimes even longer, before they will pay any secondary taxation because they are able to deduct all of their costs up-front with compounding et cetera.

Ms Howell—That is correct.

Senator CORMANN—Do you feel that you took on your side of the bargain by essentially accepting a different risk-reward profile early on? By the time you are able to benefit from the upside of that, you get penalised anyway and you are in a potentially worse position than those offshore gas projects that are subject to the PRRT arrangements. Can you comment on that?

Ms Howell—Yes, I certainly can. I think that is a very good point. I thank you, because that actually enables me to expand a little bit on the history of this project. When we were contemplating this project in 1977, we kind of formalised what we believed the fiscal arrangements were going to be. I put this in the context of this condensate exemption being ended because of high oil prices. Allowing for CPI, the real price of oil in 1977 compared to 2007 was \$51. So that was the time we discussed these matters. When we started our domestic gas production in 1984, the real cost of oil was about \$60. Then we started our LNG production in 1989. In that period between 1984 and 1989 was a huge weakening of prices. So that by the time we started our LNG project, the real price of oil was about \$30. We went through a period all the way through to about 2003 where the real price of oil was significantly lower than it was in 1977. You can see that if you take my own company, Woodside. Woodside did not pay a dividend until 1991. It had already been many years into the LNG projects and the domestic gas project. So the whole point of having a long-term fiscal package for a whole-of-life project I think is that you take the bad times and you take the good times. The North West Shelf project took basically on the LNG side 16 years before the price was lower than that original price and just the last four years when it has been higher. So the long-term project has to take those cycles, and that is the whole point of having a stable regime. You take the knocks and you take the good times.

Senator CORMANN—And for a significant part of the life of the project you essentially accepted a comparatively, dare I say it, worse secondary taxation regime compared to the situation you would have been in in those early stages of your project under a PRRT regime.

Ms Howell—That is right.

Senator CORMANN—I guess the expectation would have been that after you were profitable, you would have been able to benefit from some upside. But what you are saying is that it is actually only a very short period where there has been any upside.

Ms Howell—Exactly. I am referring now to oil prices, because oil prices have been referred to in the context of this decision—that it is only a number of years that we have actually seen a higher oil price than perhaps contemplated.

Senator CORMANN—Were you approached before the election by the shadow Treasurer or the shadow minister for resources and energy, who gave you some sort of heads-up that this was a policy consideration they were pursuing?

Ms Howell—No.

CHAIR—When you were saying that you paid a dividend in 1991—

Ms Howell—You are referring now to Woodside?

CHAIR—Yes.

Ms Howell—It paid its first dividend in 1991.

CHAIR—Was that the first year it was profitable?

Ms Howell—I guess what I am trying to explain is that Woodside is a company that was established in 1954. It discovered the North Rankin field, the first of the North West Shelf fields, in 1971. It was 37 years for that company to get to the point where it could pay a dividend. So really I am trying to emphasise the long-term nature of these projects, where you are putting money in for years and years and years and not getting anything out to return to your shareholders.

CHAIR—Of course, profitability and whether you pay a dividend are different things.

Ms Howell—Yes. But obviously a company that had no production was not making any profits for many years.

CHAIR—All right. In terms of the PRRT regime, as Senator Cormann was saying, you only start paying the tax after you are profitable. That is a very different regime to the one you are under. You are saying you are doing the analysis on whether or not you would have been better off under that regime. Would that be a preferable regime for you for new developments?

Ms Howell—I cannot say at this point. It is a very complicated calculation because of the way that the expenditure has escalated and is calculated and the assumptions about product price. Yes, I just could not say.

CHAIR—Okay.

Senator FURNER—Ms Howell, you made reference to an agreement with the government in respect of excise tariff arrangements. Certainly your website concurs with your statement of having arrangements with Japan of agreements of 20 years. I imagine after 20 years the company would certainly want to explore different arrangements, because 20 years is a long time. Conversely, I imagine, 31 years is additionally a long time to have arrangements or an agreement, where we have thus far been able to establish what those arrangements are. Surely you would not expect to have a perpetual set of conditions with a government or an organisation to go on forever without being reviewed.

Ms Howell—That is correct. We have had very long-term contracts and then we have had contract renewals. The terms are not identical. That is correct. I am sorry. I do not quite understand exactly what the analogy is.

Senator FURNER—I was merely suggesting that with any arrangement, when you enter into agreement with another party, it is not a perpetual arrangement where it is ongoing. Matters will be reviewed and considered.

Senator CORMANN—It is a mutual agreement.

Ms Howell—Yes. That is correct. Obviously, we have renegotiated contracts and we have had discussion and debate leading to those renegotiations prior to actually changing anything.

Senator CORMANN—Are you able to change your long-term contracts and financial agreements, including in a domestic gas market? Obviously your customers would be very keen to ensure ongoing supply. As Senator Furner just mentioned, any agreement between two consenting adults or two businesses or two organisations can be changed by mutual agreement. Is that one of the options that you would be exploring?

Senator FURNER—I never said that.

Senator CORMANN—I am sort of taking it a step further.

Senator FURNER—You are quoting me out of context.

Senator CORMANN—Let me rephrase it and make it my own. Any contract between organisations can obviously be changed consistent with mutual agreement. Is that an option available to you—to review your long-term contracts, both domestically and LNG contracts, and essentially explain the situation of the changed fiscal arrangement that you are faced with? What are your options there? Is that something that you have explored?

Ms Howell—As I said earlier, I am obviously not at liberty to talk about the specifics of our individual contracts because they are confidential. But we have contracts in place that we honour and we will continue to honour. I think on the issue of trying to renegotiate those, the terms of the contracts are the terms of the contract.

Senator CORMANN—But you could renegotiate them?

Ms Howell—Well, as I said, they are contracts that we have to honour.

Senator CORMANN—Until you agree with the other party.

Ms Howell—If there is not a specific ability to renegotiate, we honour them, and that is the case.

Senator CORMANN—I understand that. You will honour them until you might have reached agreement on changing the contract.

Ms Howell—Yes. Well, quite frankly, if we went to a customer and said, ‘By the way, we just want to increase the price,’ we would have to have a contractual ability to do that.

Senator CORMANN—Understood. But you have mentioned earlier how you are actually committing, and have committed in recent years, to significant additional capital investment not to expand production but to maintain production and to meet your current contracts. Presumably into the future you will have to make similar investment decisions. Your recent investment decisions were taken in the context of a particular fiscal arrangement, and that has changed. If you had to invest in future capital expansion to meet your existing contracts, is that a circumstance in which you would have to go to your customers and say, ‘Look, we opened the books. This is the new world order. In order to ensure supply moving forward, we need to renegotiate?’ Clearly, any parties to an agreement can change that agreement by mutual agreement.

Ms Howell—As I said, the terms of our contracts are confidential. Therefore, I do not really want to refer to any specifics in them. As I said earlier, we have commitments to supply to our customers, which we will honour.

Senator CORMANN—So you cannot rule out that that is one of the options that the parties to the agreement might explore in the future?

Ms Howell—As I said, we will stick to the conditions of our existing contracts.

Senator CORMANN—Until they are changed by mutual agreement?

Ms Howell—We will stick to the conditions, which I cannot reveal.

Senator EGGLESTON—More to the point, Ms Howell, when you are dealing with a government and you come to an arrangement, very often there is a review period built into any agreement about an arrangement. It would seem that there was no such review built into the agreement regarding tax on condensate. In other words, you were not aware that the government might wish to change this arrangement. There was certainly no arrangement under which at a regular interval—say, five or 10 years—it would be reviewed.

Ms Howell—That is certainly my understanding—that there was no provision for review at a particular time.

Senator EGGLESTON—This comes back to the point you make in your report at 3.3, ‘Developing industry assistance’, in which you say that the concept of this exemption from condensate tax being regarded as a development assistance measure simply does not accord with the facts under which that exemption was set up. Would you like to expand on that?

Ms Howell—Yes, I would. I think I have made the point already about a whole-of-life approach. I cannot say what the intentions were in 1977. I was not there. But to the best of my belief, I think that these assurances were put in place on the basis of a whole-of-life approach. Recognise that this is predominantly a gas project, so this was part of the total package. As I say, to the best of my knowledge there was no suggestion that this would be reviewed at a certain time based on the profitability or otherwise of the project.

Senator PRATT—Ms Howell, you made a statement with regard to profitability and dividends. I certainly take your point in that respect over a large period of time in which people have been making these investments. I wonder whether you might also comment on the fact that surely many of those investors would also be looking to their share price, in which most of them would have in the long term also had a significant return.

Ms Howell—Yes. What I was really trying to point out, when you make these sorts of investments, is the long periods for companies before they get their money back and before they reach anywhere close to their rate of return, where they are still in a cash flow hole for many, many years. I was just using that example of one company that would have gone for a very, very long period before it could significantly return to its shareholders.

Senator PRATT—I also want to ask you about sovereign risk. Clearly, we have had some strong messages about an indication of sovereign risk. I can understand your industry might be in a difficult position in terms of not wanting to, on the other hand, overstate that risk in terms of sending a message to your own investors. Could you make a comment about how you are balancing those issues out?

Ms Howell—The sovereign risk issue?

Senator PRATT—Yes.

Ms Howell—As has been said before—and I certainly would support the previous comments from Ms Robinson—Australia has been regarded as having very, very low sovereign risk. That is obviously something that has attracted both Australian companies and international companies to invest in Australia. It also is a factor, I think, in our overseas customers’ minds. Although, as we said, we are high cost, we have also been seen as highly reliable and predictable et cetera by our customers overseas, and that has been fantastic. We would like to see that restored. We think it unfortunate that this decision may have created a little bit of a hiccup in terms of that belief. We think the opportunity to restore that is the Henry review. If we could go through a really good review process, where there is due discussion, due debate and real understanding of all sides and we can come out of that with something that is endorsed by all, that will send a really good signal back that we are back on track.

Senator PRATT—That makes sense to me. On the one hand, you are trying to send a strong message to government that sovereign risk is a real issue. But on the other hand, you certainly do not want your customers to get that view that sovereign risk is a significant issue. You have a balancing act to play in relation to that. Thank you.

CHAIR—Thank you, Ms Howell. Thank you for your evidence this morning. This hearing of the committee is now adjourned.

Committee adjourned at 10.59 am