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12 May 2023

Stuart Richardson
General Manager, Gas Markets Branch
Department of Climate Change, Energy, the Environment and Water
Ngunnawal Country, 51 Allara Street
Canberra ACT 2601

RE: Mandatory code of conduct for the east coast gas market

Dear Mr Richardson

INPEX welcomes the opportunity to provide feedback on the Department on the Mandatory Code of Conduct for the East Coast Gas Market consultation paper (the paper) and the draft of the Competition and Consumer (Gas Market Code) Regulations 2023 (the Code).

INPEX CORPORATION is Japan's flagship energy company and has been an active member of the Australian business community since 1986. INPEX is the largest Japanese investor in Australia, as operator of Ichthys LNG, one of Australia's largest and most complex oil and gas developments. INPEX's Australian portfolio also includes participating interests in Van Gogh and Coniston, Ravensworth, Prelude FLNG and Bayu-Undan/Darwin LNG.

INPEX's investment strategy roadmap INPEX Vision@2022 lists Australia as one of five core regions globally to be targeted for future investment opportunities. INPEX Vision@2022 also outlines plans for further expansion of the Ichthys LNG facility, including the construction of a third LNG train by around 2030, investment in carbon capture and storage (CCS), renewable energy projects and future hydrogen and ammonia opportunities. This investment approach is aligned with the government's Powering Australia and Rewiring the Nation policies to create low carbon energy job opportunities for all Australians. INPEX accepts the global challenge of climate change and supports Australia's updated commitments and intentions made in June 2022 under the Paris Agreement and has committed to net zero emissions by 2050.

INPEX's Final Investment Decision (FID) in 2012 for the Ichthys LNG Project in Australia, the single largest overseas investment by a Japanese company, was based on the fundamental economic principle that the energy prices are determined fairly and transparently in the balance between supply and demand, and on the premise that Australia is a country with a stable policy environment, a free market and limited government intervention.

INPEX recognises that it is of utmost importance that the Government takes measures to promote the activities needed to reduce energy prices. We are reassured by, and consider appropriate, the Government's intention to support investment pursuant to increases in gas supply. The best way to sustainably resolve potential gas market shortfalls in the east

coast gas market, or any high prices that may result, is to ensure more investment in supply, particularly in Victoria and New South Wales. We do not consider that continued market intervention will promote this intention and we urge the Government to focus on efforts to attract investment in supply.

Whilst the northern gas market is functionally separate from the east coast market, the following feedback is provided on the basis that facilities linked to northern gas market (including the Ichthys LNG facility) are subject to the Code in line with subsections defining the geographical application of the Code. INPEX ultimately has no presence in the east coast market and as such, the issues currently confronting this market are not directly relevant to INPEX. We have therefore focused our comments on those relevant aspects we can best address.

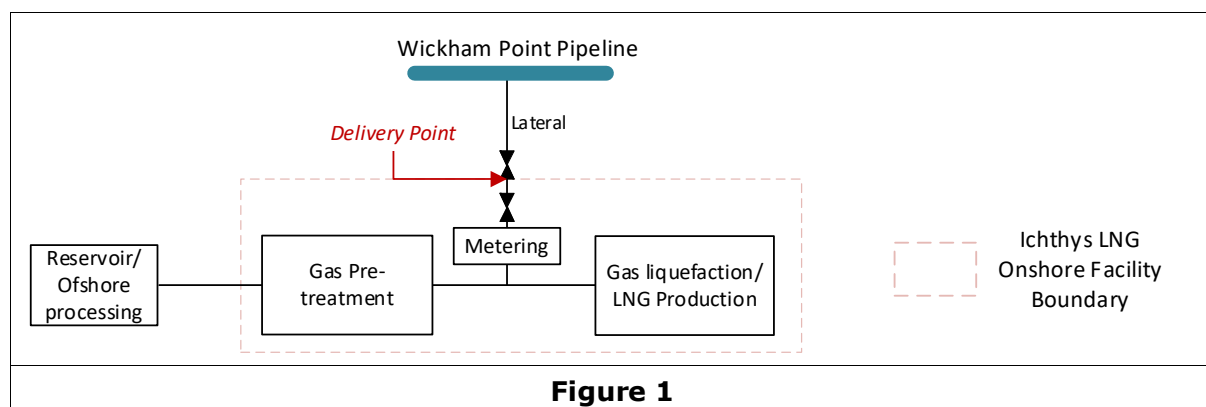
We wish to highlight the following key principles with regard to INPEX’s position on the proposed Code:

- **The Code is not applicable to Ichthys LNG:** INPEX is not a regulated gas producer as per the definition of the Code and therefore not a covered supplier as per the definition of the Code.
- **Pricing should be determined by the market:** INPEX considers that sustained regulatory price intervention or even the possibility thereof will have a significant detrimental impact on investment.
- **Review mechanism is not appropriate for pricing provisions:** INPEX considers that price controls must contain a sunset clause and be monitored continuously to ensure they are only in place as long as necessary.

Ichthys LNG operational circumstances

We would firstly like to take the opportunity to provide for the record a clear description of Ichthys LNG’s circumstance with respect to the supply of regulated gas to the east coast market as these circumstances provide context to our feedback. The following section outlines key characteristics of these circumstances;

Delivery arrangements and capability



1. Ichthys LNG is supplied with gas from the Ichthys Field. A Project Development Agreement signed between Ichthys Project Participants and the Northern

Territory Government contemplates certain arrangement of gas supply between Ichthys LNG and Power and Water Corporation (PWC) in emergency situations only

2. Ichthys LNG currently supplies gas to PWC under the existing agreement referred to as the Emergency Gas Supply Agreement (EGSA)
3. The key terms of the EGSA provide for PWC to request Ichthys LNG to deliver gas to PWC in emergency situations where PWC has a shortfall of gas, in turn Ichthys LNG delivers gas on a reasonable endeavours basis
 - a. Gas is not delivered to PWC unless and until requested by PWC
 - b. PWC utilises gas delivered by Ichthys LNG for electricity generation purposes
4. Gas is delivered to PWC by Ichthys LNG through a lateral, owned by PWC, which is in turn connected to the Wickham Point Pipeline (WPP). This lateral is the only connection that Ichthys LNG has with the broader domestic gas network
5. The Ichthys LNG facility is connected to the WPP as per Figure 1. The gas delivered to PWC is a side-stream of the inlet gas to liquefaction trains of the Ichthys LNG facility i.e. gas is not specifically processed/produced for the purpose of delivery to PWC, but treated as a part the Ichthys LNG facility's LNG production processes
 - a. Ichthys LNG does not currently take specific action to process the gas extracted from the Ichthys field in order to ensure that this gas meets all of the quality guidelines as set out by the AEMO
 - b. Gas is provided to PWC on an "as is" basis with Ichthys LNG making no representations or warranties in respect to the quality of the gas supplied under the EGSA
6. The pressure at which Ichthys LNG delivers gas to the WPP is not sufficient for transmission beyond the immediate Darwin area.

Quantity of regulated gas delivered

1. Quantities delivered to PWC are variable in line with the requested demand from PWC and the capacity of the Ichthys LNG facility to provide for this demand.
2. The maximum which could be provided given flow restrictions is approximately 18 PJ per annum

Assessment of the applicability of the Code to Ichthys LNG

Given the circumstances outlined with respect to Ichthys LNG's gas delivery arrangements and capability, INPEX does not consider that, through Ichthys LNG, it currently carries on a business of producing regulated gas. INPEX therefore concludes that it is not a regulated gas producer as per the definition of the Code, and therefore not a covered supplier as per the definition of the Code.

For clarity, given the provided definition of regulated gas, INPEX considers that whilst it does not currently carry on a business of producing regulated gas, that it does in emergency situations provide gas to an external entity which may fit the definition of regulated gas.

Pricing Framework

INPEX considers that gas prices should be determined by the market and that sustained regulatory price intervention or even the possibility thereof will have a significant detrimental impact on investment in the industry. Such policy is not constructive at time when Australia requires the development of new energy supplies to meet energy demand and to reduce costs to industry and consumers alike. Additional market intervention will further compound current supply issues resulting from declining production volumes and prohibition on new developments in New South Wales and Victoria.

We consider that government intervention in a previously free market raises the estimation of political risk for both investors and financiers thereby raising the cost of capital and necessitating the application of a higher discount rate in the consideration of project economics.

The oil and gas industry is highly cyclical in nature. Project economics invariably contemplate cyclical variation in pricing with the expectation that downside risk will be balanced by upside potential. The implementation of a price cap that goes further than providing protection against extra-ordinary prices preserves downside risk and at the same time caps upside potential.

Review Mechanism

Whilst the proposed review mechanisms do seem appropriate for a majority of the provisions within the Code, INPEX does not consider that these are appropriate in relation to the pricing provisions.

If price controls are considered absolutely necessary then these should be implemented only with a clear sunset clause. Further, such controls should be monitored continuously to ensure that they are only in place for as long as they are necessary or remain appropriate.

Provisions for exemptions

Despite not being a covered supplier INPEX has considered the design of exemptions provisions within the Code and can provide the following feedback:

Deemed exemption for small suppliers supplying the domestic market

INPEX considers that this provision is an appropriate way in which small suppliers may be encouraged to provide supply for the domestic gas market and further that this might encourage suppliers who are otherwise LNG focused to consider more favourably supplying gas that is not required for the fulfillment of LNG contracts to the domestic market.

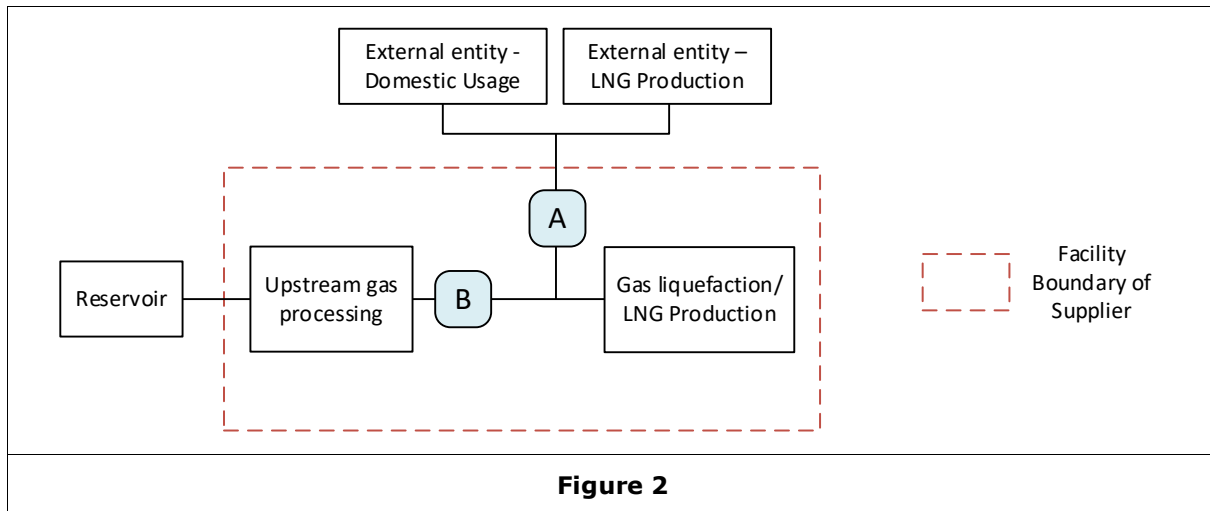
INPEX concludes that Ichthys LNG would currently meet the requirements pursuant to deemed exemption for small suppliers given:

1. The quantities of gas delivered to PWC are less than the 100PJ threshold limit; and
2. That the regulated gas supplied by INPEX to PWC is not exported.

INPEX has understood, based on feedback from the Department, that in the case where gas is converted to LNG within the same facility that also supplies a quantity of gas to other entities, that it is only the quantity of gas provided to the external entities that

should be considered i.e. that volume of gas that may be measured at point "A" in Figure 2.

Given that the characteristics of the gas at points "A" and "B" are, in Ichthys LNG's circumstances, the same it is not clear from the current wording of the Code that the produced gas volumes required to be considered pursuant to the small suppliers exemption necessarily includes only that volume measured at point "A". INPEX would suggest that the definition of regulated gas be further clarified (either within the Code or further implementation guidelines) to identify that this excludes gas volumes converted to LNG without a change in custody.



Conditional Ministerial exemption

INPEX considers that the provisions for conditional Ministerial exemption will require significantly more clarification, potentially through the development of detailed implementation guidelines, if such provisions are to provide producers with a clear incentive to undertake the negotiation of "enforceable domestic supply commitments".

Whilst it may be understood that the provisions as currently described have been developed to allow for a significant amount of flexibility for ministers to grant such exemption, this inherently allows for equal flexibility for Ministers not to grant exemptions.

We consider the following aspects to be problematic:

1. Insufficient insight into what will deem negotiated commitments to be "satisfactory" in the eyes of the ministers
2. The negotiation of an enforceable commitment must occur prior to the granting of an exemption at which point producers have no clear line of sight to whether an exemption may be granted nor, if one were to be granted, the duration of such an exemption
3. The nature of the conditions that might be applied are unconstrained by the Code; and
4. Reporting requirements (every quarter) could potentially be unnecessarily onerous. It would be better to set these when the exemption is granted with regard to the nature (potential dynamism) of the conditions.

Given the above and ultimately that ministerial exemptions are revokable, INPEX does not consider that the provision for such exemptions would provide the necessary level of policy certainty that would incentivise a producer to accept the risks relating to an enforceable supply commitment over the risks associated with a pricing cap.

Reporting Requirements

INPEX considers that the reporting requirements as currently contemplated could result in an unnecessary administrative burden that does not achieve the policy intent of providing for greater market transparency.

In contemplating future arrangements under which Ichthys LNG might seek to become a regulated gas supplier, we consider that given LNG production would continue to be the focus of our project and that our sole physical connection to the network is through the PWC owned WPP, any future arrangements would be predicated on bi-lateral negotiation such that no volume of gas would be diverted away from LNG production for supply as regulated gas without that volume being pre-contracted for supply.

It is therefore highly likely that Ichthys LNG would be required to report zero values or “nothing to report” on an ongoing basis for a majority of items in subsections 34 and 35 of the Code.

We suggest that it would be useful to expand the subsections of the Code that could be considered as a part of conditional ministerial exemptions.

If you would like to discuss further any of the issues raised above, please contact INPEX’s Government Affairs and Approvals Manager, John Williams, on 0412 422 636 or via email john.w@inpex.com.au.

Sincerely yours



Bill Townsend

Senior Vice President Corporate