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Gas Market Consultation
Labour Market, Environment, Industry and Infrastructure Division
The Treasury
Langton Crescent
PARKES ACT 2600

RE: Mandatory Code of Conduct – Consultation December 2022

INPEX welcomes the opportunity to engage with Treasury to provide a submission in response to the *Options to ensure the domestic wholesale gas market delivers for Australians Consultation Paper – December 2022*, specifically on aspects relating to the proposed mandatory code of conduct to guide behaviour in the domestic gas market.

INPEX Corporation is a global oil and gas exploration and production company listed on the Tokyo Stock Exchange and is 18.9 per cent owned by the Japanese Government through the Ministry of Economy, Trade and Industry. As Japan's flagship oil and gas company, INPEX provides a stable and efficient supply of energy to our customers by exploring and developing oil and natural gas resources throughout the world.

INPEX has been an active member of the Australian business community since 1986 and 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.

Our interests (operated and non-operated) are concentrated in Western Australia and the Northern Territory. While the projects in which INPEX participates are geographically removed from the east coast, we are nevertheless concerned by further Government intervention in the national gas market.

INPEX's decision in 2011 to make a long-term investment in Australia with the Ichthys LNG project, the single largest overseas investment by a Japanese company, was based on the fundamental economic principle that energy prices are determined fairly and transparently in the balance between supply and demand, and on the premise that Australia offers a relatively stable policy environment that provides a high level of confidence and lower risk for potential investment over the longer term.

Unprecedented forms of Government intervention, however, such as the introduction of the Northern Oil and Gas Australia (NOGA) levy in 2021 and a gas price cap last year, can discourage the investments needed to reduce energy prices, and impact Australia's reputation as a country with stable policy settings and low sovereign risk. Government intervention in a free market economy such as Australia's, should be limited only to

measures of last resort such as the ADGSM, which is the subject of a separate consultation process.

It is of utmost importance that the Government takes measures to promote the activities needed to reduce energy prices. In particular, the Government should actively work to attract the significant infrastructure investment required to expand the supply of natural gas and LNG, which is essential to both the energy transition and to Australia's economic growth, rather than permanent Government and regulatory intervention through the introduction of a mandatory code of conduct, as proposed by the Government.

Applicability of Mandatory Code of Conduct to Northern Territory Gas Market

The challenges in the east coast gas market arise as a result of, amongst other things, the interconnected nature of the gas network with both domestic and export demands.

INPEX has no presence in the east coast market. As noted above, INPEX participates in the Ichthys LNG, Prelude FLNG and Darwin LNG projects. Ichthys LNG and Darwin LNG (DLNG) are both located in the Northern Territory and supplied with gas from offshore reserves.

Theoretically, Ichthys LNG is connected to the east coast gas market via a minor lateral pipeline in Darwin and ultimately the Northern Gas Pipeline (NGP). There are constraints in the existing pipeline infrastructure, however, that make it not technically feasible to supply gas to the Northern Territory domestic market, other than to Darwin-based power generators. Gas provided by INPEX through existing pipeline infrastructure cannot directly contribute to volumes provided into the east coast gas market. Additionally, despite its physical connection, the Northern Territory gas market is functionally separate from the east coast region, both in terms of its operation and the behavioural drivers within this market.

These physical constraints were noted in the July 2022 ACCC Gas Inquiry Interim Report (ACCC Interim Report) which then goes on to highlight that any additional supplies via the NGP would only make a small impact to the forecast east coast shortfall. We do not view the provision of gas from the Northern Territory to be a viable solution to the near-term challenges facing the east coast market. INPEX therefore considers it unnecessary and unhelpful for the mandatory code of conduct, designed to regulate conduct and conditions in the east coast region, to be applied in the Northern Territory.

INPEX and the Northern Territory's Power and Water Corporation have to date successfully negotiated various mutually beneficial gas supply agreements without need of a code of conduct. Such agreements have provided, and will continue to provide, energy security for the Northern Territory and are evidence of INPEX's commitment to the regions in which it operates.

INPEX recognises the constitutional necessity driving the drafting of gas market legislation to include the northern region, and would therefore request that a reasonable and efficient exemptions process be incorporated into the design, enabling gas supply arrangements within the Northern Territory gas market to be exempted.

Comments on design of a Mandatory Code of Conduct

While INPEX does not consider the mandatory code of conduct should be applicable to gas sales agreements in the Northern Territory, we welcome the opportunity to participate in the consultation process related to its design.

INPEX considers that a well-designed voluntary, industry-led code of conduct can be useful in ensuring an appropriate level of transparency in negotiations, providing for dispute resolution processes and increasing the confidence of stakeholders. The design of a

mandatory code that seeks to govern a very wide variety of arrangements whilst providing for an appropriate level of structure and minimum standard setting will be very challenging. INPEX is concerned that a transition to a mandatory code could potentially:

- Undermine the efficient operation of the market, and
- Limit the flexibility that parties have in negotiating efficient, innovative, and mutually beneficial gas supply agreements.

Of particular concern within the proposed design elements of the mandatory code are the reasonable pricing provisions, specifically that:

- The cessation of such provisions is open-ended and predicated on the "improvement" (as determined by the ACCC and Government) in metrics that may not be improved by the implementation of a mandatory code or reasonable pricing provision; and
- The proposed reference cost basis will not be reflective of the range of producers that could supply into the eastern gas market; for example, the cost of production for specialised domestic gas producers will not be the same as that for LNG focused producers.

The potential for a long-term Government determined "reasonable price" is likely to have a detrimental impact on investment in the industry 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.

If a mandatory code of conduct and reasonable pricing provisions are ultimately deemed necessary, then we recommend that Government give consideration to limiting the application of such provisions to arbitration processes only. This would maintain the necessary flexibility for the efficient negotiation of bespoke, mutually beneficial bilateral agreements in cases where associated parties are able to make such agreements readily and willingly.

Should you require any additional information or clarification regarding the points raised above, please do not hesitate to contact INPEX's Government Relations and Approvals Manager, John Williams at john.w@inpex.com.au or on 0412 422 636.

Sincerely yours



Bill Townsend
Vice President Corporate