



Western Australia

North West Gas Development (Woodside) Agreement Amendment Act 2020

As at 24 Mar 2020

No. 3 of 2020

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North West Gas Development (Woodside) Agreement Amendment Act 2020

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Western Australia

North West Gas Development (Woodside) Agreement Amendment Act 2020

No. 3 of 2020

***An Act to amend the North West Gas Development (Woodside)
Agreement Act 1979.***

[Assented to 24 March 2020]

The Parliament of Western Australia enacts as follows:

s. 1

1. Short title

This is the *North West Gas Development (Woodside) Agreement Amendment Act 2020*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

3. Act amended

This Act amends the *North West Gas Development (Woodside) Agreement Act 1979*.

4. Section 2 amended

In section 2 insert in alphabetical order:

the Fifth Supplementary Agreement means the agreement a copy of which is set out in Schedule 6;

5. Section 6B inserted

After section 6A insert:

6B. Fifth Supplementary Agreement

- (1) The Fifth Supplementary Agreement is ratified.
- (2) The implementation of the Fifth Supplementary Agreement is authorised.

- (3) Without limiting or otherwise affecting the application of the *Government Agreements Act 1979*, the Fifth Supplementary Agreement operates and takes effect despite any other Act or law.

6. Schedule 6 inserted

After Schedule 5 insert:

Schedule 6 — Fifth Supplementary Agreement

[s. 2]

2019

**THE HONOURABLE MARK McGOWAN
PREMIER OF THE STATE OF WESTERN AUSTRALIA**

AND

**WOODSIDE ENERGY LTD.
ACN 005 482 986**

**SHELL AUSTRALIA PTY LTD
ACN 009 663 576**

**BHP BILLITON PETROLEUM (NORTH WEST SHELF) PTY. LTD.
ACN 004 514 489**

**BP DEVELOPMENTS AUSTRALIA PTY. LTD.
ACN 081 102 856**

**CHEVRON AUSTRALIA PTY LTD
ACN 086 197 757**

**JAPAN AUSTRALIA LNG (MIMI) PTY. LTD.
ACN 006 303 180**

**NORTH WEST GAS DEVELOPMENT (WOODSIDE)
AGREEMENT 1979
RATIFIED VARIATION AGREEMENT**

[Solicitor's details]

THIS AGREEMENT is made this 9th day of September 2019

BETWEEN

THE HONOURABLE MARK McGOWAN, BA, LLB, M.L.A., Premier of the State of Western Australia, acting for and on behalf of the said State and its instrumentalities from time to time (the "**State**") of the one part

AND

WOODSIDE ENERGY LTD. ACN 005 482 986 of 11 Mount Street, Perth, Western Australia, **SHELL AUSTRALIA PTY LTD** ACN 009 663 576 of 562 Wellington Street, Perth, Western Australia, **BHP BILLITON PETROLEUM (NORTH WEST SHELF) PTY. LTD.** ACN 004 514 489 of 125 St Georges Terrace, Perth, Western Australia, **BP DEVELOPMENTS AUSTRALIA PTY. LTD.** ACN 081 102 856 of Level 15, 240 St Georges Terrace, Perth, Western Australia, **CHEVRON AUSTRALIA PTY LTD** ACN 086 197 757 of Level 24, 250 St Georges Terrace, Western Australia and **JAPAN AUSTRALIA LNG (MIMI) PTY. LTD.** ACN 006 303 180 of Level 41, 152-158 St Georges Terrace, Perth, Western Australia (together collectively called the "**Joint Venturers**") of the other part.

RECITALS

- A. The parties to this Agreement are now the parties to the agreement (herein called the "**1979 Agreement**") dated 27 November 1979, the execution of which by the State was ratified by the *North West Gas Development (Woodside) Agreement Act 1979*, as varied by:
- (a) the agreement dated 15 September 1982 entered into pursuant to the provisions of clause 27 of the 1979 Agreement;
 - (b) the agreement dated 3 July 1985 which was ratified by the *North West Gas Development (Woodside) Agreement Amendment Act 1985*;
 - (c) the agreement dated 23 November 1994 which was ratified by the *North West Gas Development (Woodside) Agreement Amendment Act 1994*;
 - (d) the agreement dated 29 May 1996 which was ratified by the *North West Gas Development (Woodside) Agreement Amendment Act 1996*;
 - (e) the agreement dated 30 May 2002 entered into pursuant to the provisions of clause 27 of the 1979 Agreement; and
 - (f) the agreement dated 20 November 2014, which was ratified by the *North West Gas Development (Woodside) Agreement Amendment Act 2015*.

The 1979 Agreement as so varied is hereinafter referred to as the "**Principal Agreement**".

- B. The parties wish to vary the provisions of the Principal Agreement on the terms and conditions set out in this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. Ratification and operation

- (1) This Agreement, other than this clause, does not come into operation except in accordance with subclause (2).
- (2) This Agreement, other than this clause, comes into operation on the day on which it is ratified by an Act of the Parliament of Western Australia ("**Operative Date**") unless, before that day, it terminates under subclauses (4) or (5).

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- (3) The State must introduce in the Parliament of Western Australia before 31 October 2019 or a later date agreed between the parties to this Agreement, a Bill to ratify this Agreement and must endeavour to secure its passage as an Act.
- (4) If by 31 March 2020 this Agreement has not been ratified by an Act of the Parliament of Western Australia then, unless the parties to this Agreement otherwise agree, this Agreement terminates on that day and no party hereto will have any claim against any other party hereto with respect to any matter or thing arising out of, done, performed, or omitted to be done or performed under this Agreement.
- (5) The parties agree that if the Principal Agreement is otherwise determined in accordance with its provisions on a day prior to the Operative Date, then this Agreement shall also terminate on and from that day and no party hereto will have any claim against any other party hereto with respect to any matter or thing arising out of, done, performed, or omitted to be done or performed under this Agreement.

2. Variations of the Principal Agreement

The Principal Agreement is hereby varied as follows:

- (1) in clause 1 by inserting in the appropriate alphabetical positions the following new definitions:

"Second Variation Agreement" means the variation agreement made on or about 16 September 2019 between the Honourable Mark McGowan, Premier of Western Australia acting for an on behalf of the said State and its instrumentalities from time to time and the Joint Venturers;"

"Second Variation Date" means the date on which clause 2 of the Second Variation Agreement comes into operation;"

- (2) by inserting after clause 11 the following new clauses:

"11A. Community development plan

- (1) In this clause, the term "community and social benefits" includes:
 - (a) assistance with skills development and training opportunities to promote work readiness and

- employment for persons living in the Pilbara region of the said State;
- (b) training and employment for indigenous and non-indigenous persons living in the Pilbara region of the said State;
 - (c) regional development activities in the Pilbara region of the said State, including partnerships and sponsorships and local procurement of goods and services;
 - (d) contribution to any community projects, town services or facilities; and
 - (e) a regionally based workforce.
- (2) The Joint Venturers acknowledge the need for community and social benefits flowing from this Agreement.
- (3) The Joint Venturers agree that:
- (a) they shall prepare a draft plan which describes the Joint Venturers' proposed strategies for achieving community and social benefits in connection with their activities under this Agreement;
 - (b) within 2 months after the Second Variation Date, they shall confer with the Minister in respect of the draft plan; and
 - (c) they shall, following such conferral and within 3 months after the Second Variation Date, provide to the Minister a plan describing the Joint Venturers' strategies for achieving community and social benefits in connection with their activities under this Agreement.
- (4) At least 3 months before the anticipated submission of additional proposals under clause 9, the Joint Venturers must, unless the Minister otherwise requires, give to the Minister information about how the proposed activities may affect the plan provided to the Minister under this

clause. This obligation operates in relation to all additional proposals submitted on or after the date that is 4 months after the date when a plan is first provided under this clause.

- (5) During the currency of this Agreement, the Joint Venturers shall implement the plan provided to the Minister under this clause.
- (6) The Joint Venturers shall at least annually report to the Minister about the Joint Venturers' implementation of the plan provided to the Minister under this clause.
- (7) At the request of either of them made at any time and from time to time, the Minister and the Joint Venturers shall confer as to any amendments desired to any plan provided to the Minister under this clause and following such conferral the Joint Venturers may provide to the Minister an amended or a new plan. Any such amended plan or new plan will be deemed to be the plan provided to the Minister under this clause.

11B. Local participation plan

- (1) In this clause, the term "local industry participation benefits" means:
 - (a) the use and training of labour available within the said State;
 - (b) the use of the services of engineers, surveyors, architects and other professional consultants, experts, specialists, project managers and contractors available within the said State; and
 - (c) the procurement of works, materials, plant, equipment and supplies from Western Australian suppliers, manufacturers and contractors.
- (2) The Joint Venturers acknowledge the need for local industry participation benefits flowing from this Agreement.

- (3) The Joint Venturers agree that within 3 months after the Second Variation Date they shall prepare and provide to the Minister a plan which contains:
- (a) a clear statement on the strategies which the Joint Venturers will use, and require a third party as referred to in clause 12(2a) to use, as far as it is reasonable and economically practicable so to do, to maximise the uses and procurement referred to in subclause (1);
 - (b) detailed information on the procurement practices the Joint Venturers will adopt, and require a third party as referred to in clause 12(2a) to adopt, in calling for tenders and letting contracts for works, materials, plant, equipment and supplies and how such practices will provide full, fair and reasonable opportunity for suitably qualified Western Australian suppliers, manufacturers and contractors to tender or quote for works, materials, plant, equipment and supplies;
 - (c) detailed information on the methods the Joint Venturers will use, and require a third party as referred to in clause 12(2a) to use, to have their respective procurement officers promptly introduced to Western Australian suppliers, manufacturers and contractors seeking such introduction; and
 - (d) details of the communication strategies the Joint Venturers will use, and require a third party as referred to in clause 12(2a) to use, to alert Western Australian engineers, surveyors, architects and other professional consultants, experts, specialists, project managers and consultants and Western Australian suppliers, manufacturers and contractors to services opportunities and procurement opportunities respectively as referred to in subclause (1).

It is acknowledged by the Joint Venturers that the strategies of the Joint Venturers referred to in subclause (3)(a) will include strategies of the Joint

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Venturers in relation to supply of services, labour, works, materials, plant, equipment or supplies for the purposes of this Agreement.

- (4) During the currency of this Agreement the Joint Venturers shall implement the plan provided under this clause.
 - (5) At the request of either of them made at any time and from time to time, the Minister and the Joint Venturers shall confer as to any amendments desired to any plan provided under this clause and may agree to the amendment of the plan or the provision of a new plan in substitution for the one previously provided.
 - (6) At least 3 months before the anticipated submission of additional proposals under clause 9 (or such lesser period as the Minister may, at the request of the Joint Venturers, approve in respect of any such anticipated proposals), the Joint Venturers must, unless the Minister otherwise requires, give to the Minister information about the implementation of the plan provided under this clause in relation to the activities to be the subject of such proposals. This obligation operates in relation to all additional proposals submitted on or after the date that is 4 months after the date when a plan is first provided under this clause."
- (3) in clause 12 by:
- (a) in clause 12(1)(c), after the words "contractors are given" inserting the words "full, fair and";
 - (b) in clause 12(1)(d), deleting "and where possible preference";
 - (c) after clause 12(2), inserting the following new subclause (2a):

"Except as otherwise agreed by the Minister, the Joint Venturers shall, in every contract entered into with a third party after the Second Variation Date for the supply of services, labour, works, materials, plant, equipment and supplies for the purposes of this Agreement require as a condition thereof that such third party shall undertake

procurement activities in accordance with the relevant plan under clause 11B as and from the date of its provision to the Minister and shall report to the Joint Venturers concerning their implementation of that condition."

- (d) in clause 12(3), after the words "provisions of this Clause" inserting the words "and of the relevant plan provided pursuant to clause 11B" and also deleting the words "subclause (2) of"; and
 - (e) after clause 12(3), inserting the following new subclause (4):

"The Joint Venturers acknowledge that nothing in this Agreement shall be taken to limit the rights of the State to enact general legislation in substitution for or modification of, in whole or in part, the provisions of this Agreement (including clauses 11B and 12) relating to local participation."
- (4) by inserting after clause 18(4) the following new subclause (5):

"Cessation of water supply requirements under this Agreement

- (5)(a) The State and the Joint Venturers acknowledge that the Joint Venturers and the Water Corporation (being the designated statutory body) have entered into a Water Supply Agreement dated 2 August 2019 which is intended to replace the rights and obligations of the State (including the Water Corporation) and the Joint Venturers under this Agreement in relation to water supply and associated matters effective on and from the Second Variation Date.
- (b) On and from the Second Variation Date:
 - (i) the rights and obligations of the State (including the Water Corporation) and the Joint Venturers under or arising from:

(A) this Clause; and

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(B) associated water supply-related requirements and arrangements under approved proposals;

shall cease; and

(ii) the Joint Venturers shall remain liable for any accrued liability or antecedent breach or default of their obligations under or arising from:

(A) this Clause; and

(B) associated water supply-related requirements and arrangements under approved proposals."

(5) in clause 22 by:

(a) deleting "except as to any part upon which a permanent residence shall be erected or which is occupied in connection with that residence and except as to any part upon which there stands any improvements that are used in connection with a commercial undertaking not directly related to the overall project)" and substituting "except as to any part upon which is situated a specified improvement as referred to below";

(b) inserting the following as a new paragraph at the end of the clause:

"For the purposes of this Clause the following improvements are specified improvements:

(a) accommodation, recreation and administration facilities and associated buildings; and

(b) maintenance workshops existing within 100 metres of facilities of the type listed in paragraph (a) above."

(6) in clause 33 after the words "pursuant to any Act" inserting "(including under the *Environmental Protection Act 1986*)";

- (7) in clause 38 by:
- (a) in clause 38(1):
 - (i) deleting "their umpire" and substituting "a third and presiding arbitrator"; and
 - (ii) deleting "Arbitration Act 1895" and substituting "Commercial Arbitration Act 2012"; and
 - (b) in clause 38(3), deleting the phrase "or umpire (as the case may be)";
- (8) in clause 46(1) by:
- (a) in clause 46(1), deleting "2034" and substituting "2059"; and
 - (b) in clause 46(2), deleting "2034" and substituting "2059"; and
- (9) inserting the following at the end of clause 47 after the words "the State of Western Australia":

"and except for matters to be referred to arbitration pursuant to this Agreement the parties to this Agreement submit to the jurisdiction of the courts of Western Australia in relation to any action or proceeding to settle any dispute or question arising out of or in connection with this Agreement".

EXECUTED as a deed.

SIGNED by **THE HONOURABLE**)
MARK McGOWAN) [Signature]
in the presence of:)

[Signature].....
Signature of witness

NADEEN LYN ROBERTS.....
Name of witness

**North West Gas Development (Woodside) Agreement Amendment
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EXECUTED by **WOODSIDE ENERGY**)
LTD. ACN 005 482 986 by its attorney)
under power of attorney dated 12 June 2018 in)
the presence of:)

) [Signature].....
Signature of attorney
[Signature].....
Signature of witness

NIALL JOHN MYLES.....
Full name of witness (block letters)

4 RONA ST, NORTH BEACH WA 6020.....
Address of witness

MANAGER.....
Occupation of witness

MARGUERITE O'NEILL.....
Full name of attorney (block letters)

By executing this agreement the
attorney states that the attorney has
received no notice of revocation of the
power of attorney

EXECUTED by **SHELL AUSTRALIA**)
PTY LTD ACN 009 663 576 in accordance)
with section 127(1) of the *Corporations*)
Act 2001 (Cth) by authority of its directors:)

[Signature].....
Signature of director

ZOE ALEXANDRA YUJNOVICH.....
Full name of director (block letters)

[Signature].....
Signature of director/~~company~~
~~secretary~~*

MICHAEL JOHN CAREY.....
Full name of director/~~company~~
~~secretary~~* (block letters)

*delete whichever is not applicable

EXECUTED by **BHP BILLITON**)
PETROLEUM (NORTH WEST SHELF))
PTY. LTD. ACN 004 514 489 in accordance)
with section 127(1) of the *Corporations*)
Act 2001 (Cth) by authority of its directors:

[Signature].....
Signature of director

TIMOTHY O'CONNOR.....
Full name of director (block letters)

[Signature].....
Signature of director/~~company~~
~~secretary~~*

GRAHAM SALMOND.....
Full name of director/~~company~~
~~secretary~~* (block letters)
*delete whichever is not applicable

EXECUTED by **BP DEVELOPMENTS**)
AUSTRALIA PTY. LTD. ACN 081 102 856)
by its attorney under power of attorney dated)
4 May 2018 in the presence of:)
)
)

[Signature].....
Signature of witness

DAVID ROLAND CULLEN.....
Full name of witness (block letters)

LV 15, 240 ST GEORGES TCE.....
Address of witness

MANAGER NWS.....
Occupation of witness

[Signature].....
Signature of attorney

EMIL ISMAYILOV.....
Full name of attorney (block letters)

By executing this agreement the
attorney states that the attorney has
received no notice of revocation of the
power of attorney

**North West Gas Development (Woodside) Agreement Amendment
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EXECUTED by **CHEVRON AUSTRALIA**)
PTY LTD ACN 086 197 757 in accordance)
with section 127(1) of the *Corporations*)
Act 2001 (Cth) by authority of its directors:)

[Signature].....
Signature of director

[Signature].....
Signature of director/~~company~~
secretary*

PAUL WELTON.....
Full name of director (block letters)

JAKE SPIERING.....
Full name of director/~~company~~
secretary* (block letters)
*delete whichever is not applicable

EXECUTED by **JAPAN AUSTRALIA LNG**)
(MIMI) PTY. LTD. ACN 006 303 180 in)
accordance with section 127(1) of the)
Corporations Act 2001 (Cth) by authority of its)
directors:

[Signature].....
Signature of director

[Signature].....
Signature of ~~director~~/company
secretary*

KOTA YAMADA.....
Full name of director (block letters)

RUSSELL JAMES HARMAN.....
Full name of ~~director~~/company
secretary* (block letters)
*delete whichever is not applicable



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