



**Australian Government**

**Department of Resources  
Energy and Tourism**

Industry House, 10 Binara Street  
CANBERRA CITY ACT 2601

GPO Box 1564  
Canberra ACT 2601 Australia

Phone: +61 2 6276 1134

Facsimile: +61 2 6213 6935

Email: [jessica.brown@ret.gov.au](mailto:jessica.brown@ret.gov.au)

Web: [www.ret.gov.au](http://www.ret.gov.au)

ABN: 46 252 861 927

14 April 2010

John Hawkins  
Committee Secretary  
Senate Economics Legislation Committee  
Parliament House  
CANBERRA ACT 2600

Dear Mr Hawkins

**Department of Resources Energy and Tourism supplementary submission  
to the Senate Economics Legislation Committee inquiry into the  
Offshore Petroleum and Greenhouse Gas Storage Legislation  
Amendment (Miscellaneous Measures) Bill 2010**

Thank you for the opportunity to provide both minor corrections on the Proof Committee Hansard provided on 7 April 2010 but also, as discussed, some further explanatory information to assist the Senate Committee in its objective assessment of the *Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Miscellaneous Measures) Bill 2010* (the Bill).

In response to evidence provided to the Committee the Department of Resources Energy and Tourism (the Department) considers that the Committee would benefit from further evidence in relation to the Offshore Constitutional Settlement.

A statement was made (at page E3) that the Offshore Constitutional Settlement between the Commonwealth, the States and the Northern Territory "set the ownership of the oil and gas to the Commonwealth in Commonwealth waters -- that is, outside the Western Australia state territorial three-mile boundary". This may have given members of the Committee the impression that the Commonwealth's rights in the oil and gas reserves in Commonwealth waters are derived from an agreement with the States and Northern Territory.

In fact, the reverse is true. Prior to the Offshore Constitutional Settlement in 1979, the High Court of Australia had held that rights in the seabed, including oil and gas rights, in the whole of the Australian offshore waters, including the territorial sea and the continental shelf, belonged to the Commonwealth alone and not to the States or Northern Territory. As part

of the Offshore Constitutional Settlement, the Commonwealth gave to the states and the territory title to the seabed, including oil and gas rights, in the three nautical mile state and territory coastal seas. This included, in the case of Western Australia, the waters of the sea landward of that coastal sea that Western Australian officials refer to as 'internal waters of the state'. The rights and title were conferred by the Commonwealth Parliament by the *Coastal Waters (State Title) Act 1980* and the *Coastal Waters (Northern Territory Title) Act 1980*.

The Department is available to discuss this issue in more detail if necessary. In the first instance please contact Jessica Brown (ph 02 6213 7974, [jessica.brown@ret.gov.au](mailto:jessica.brown@ret.gov.au)) to arrange this.

The hand annotated Proof Committee Hansard transcript is attached.

Yours sincerely

Martin Squire  
General Manager  
Offshore Resources Branch  
Department of Resources Energy and Tourism