



30 April 2008

Mr John Hartwell
Head of Resources Division
Department of Resources, Energy and Tourism
GPO Box 9839
CANBERRA ACT 2601

Dear Mr Hartwell

Thank you for your letter of 25 March 2008 concerning the Retention Lease policy review. The Alliance supports improving the Retention Lease process to ensure greater openness and transparency, and that commerciality tests are stringently applied.

Domestic supply commerciality should be the first test

The Alliance acknowledges the important role of the Retention Lease process in facilitating exploration, investment and development of Australia's gas resources. However, the process also plays an important role in meeting broader national interest objectives – in particular, ensuring the energy security needs of the Australian economy are met.

The Alliance believes that Retention Leases are currently being used by producers to withhold gas supplies from the domestic market. This is contrary to the object of the legislation which does not allow producers to park reserves or to develop in sequence reserves most profitable for LNG export.

The Alliance supports more stringent Government application of the Retention Lease process to ensure it is not used by producers to withhold gas that could be used to supply the domestic market.

Recommendations

- In the first instance, reserves held under Retention Leases should be assessed to determine whether they are capable of supplying the domestic market on a commercial basis.
- The Alliance also supports amendment of the administrative guidelines or legislation to further reinforce this expectation.

Improving transparency and third party participation

The current process provides little transparency or openness. There is no gazettal system which would make public the substance of a Retention Lease application, the stage in the process that a particular application is at, or the reasons or basis for the Designated Authority's decision. The current process therefore provides an asymmetry of information that limits participation of other interested stakeholders.

This contrasts to existing State and Commonwealth environmental approval processes for development projects. These processes provide for transparency and significant opportunity for stakeholder input.

Greater transparency and disclosure will:

- 1) improve the underlying basis of Retention Lease decisions;
- 2) encourage third party participation;
- 3) subject applicant claims and assumptions to greater scrutiny and contestability;
- 4) strengthen the application of the commerciality test; and
- 5) promote opportunity and field development.

Recommendations

- A public, on-line registry of State and Commonwealth retention leases should be established.
- The registry should provide clear indication on the current status of a particular Retention Lease application, the step in the process, etc; as well as identify Retention Leases coming up for review.
- There needs to be a public announcement when the Designated Authority begins its process of review.
- The general parameters or assumptions used by the Designated Authority to test "commerciality" should be publicly disclosed. This could be achieved by publishing an assumptions or data book identifying key factors such as prices, local demand, rate of return, expectations on CAPEX / OPEX, etc.
- Expert reports commissioned by the Designated Authority into matters such as market conditions, construction costs, etc, should be published.
- The Government's Joint Technical Report should be published.

- There should be a review period allowing third parties to submit information in relation to the assessment parameters used by the Designated Authority, the assumptions and development concepts being advanced by the proponent, or to reinforce or challenge the Designated Authority's draft decision.
- Opportunity should be provided to third parties to have input into the establishment of conditions for the grant or renewal of Retention Leases.
- The reasons and substance of the Designated Authority's decision should be published.

Independent review

The robustness of Retention Lease decisions can be improved by providing for independent peer review or third party assessment of the Government's Joint Technical Report. This will also promote confidence and transparency in the process.

Recommendation

- There should be an independent peer review or third party assessment to review and validate the Joint Technical Report, and to test the assumptions and conclusions made.

Managing commercial confidentiality concerns

The Alliance recognises that lease holders may raise commercial information and confidentiality concerns. Such concerns should be manageable and, in any event, should not override the objects of the Retention Lease system.

The closed nature of the Retention Lease process contrasts sharply with the process employed for environmental approvals. Existing State and Commonwealth environmental approvals processes for project developments for example require project proponents to publicly disclose a great deal of detailed information, much of which could be described as "commercially-sensitive". This includes information on:

- the proposed development concept and production levels;
- required infrastructure modifications or proposed new infrastructure;
- equipment components and process modifications;
- requirements for services and utilities, including water and energy;
- construction and operational workforce;
- expected emissions and other environmental impacts; and
- proposed environmental management plans.

Timeliness of proposed changes

The Alliance urges that any proposed changes to strengthen and improve the Retention Lease process should be implemented in the most expeditious manner. Where changes can be effectively achieved through existing arrangements or administrative guidelines, this should be preferred to legislative amendments; however, legislative amendments should also be pursued where appropriate, to further strengthen and reinforce policy changes.

The Alliance will continue to work closely with Government to ensure that Retention Lease arrangements facilitate investment and development of Australia's gas resources, while ensuring the energy security needs of the Australian economy are met.

Yours sincerely

Stuart Hohnen
Chairman, DomGas Alliance

CC:

Mr Drew Clark, Head of Energy and Environment Division, Department of Resources, Energy and Tourism

Mr Stuart Smith, A/Director General, Department of Industry and Resources

Mr Bill Tinapple, Director Petroleum & Royalties Division, Department of Industry and Resources

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