Incomplete and uncertain
Environment and heritage approvals for the Woodside Scarborough project
This report provides an overview of the status of major environmental and heritage approvals required before the Woodside Scarborough and Pluto LNG expansion project can proceed and summarises the key areas of risk relating to each approval.

Less than two months away from Woodside’s targeted final investment decision (FID) on the $16bn Scarborough and Pluto LNG development, environmental approvals for the project are in a mess.

Almost every environmental approval required for the project remains outstanding, subject to unresolved legal challenges, requires updating, or is behind schedule. Meanwhile, a major new area of legal and reputational risk is emerging around Aboriginal heritage.

Each of the approval areas examined in this report presents significant risks for investors in its own right. Taken together, these risks are multiplied and the lack of progress towards resolving these issues makes Woodside’s current timeline for final investment a decidedly reckless proposition.

While Woodside appears willing to accept a very high level of risk in order to see the project proceed, other partners and investors are unlikely to share the same risk appetite.

Potential equity partners and financiers should therefore withhold investment commitments, while Woodside shareholders are urged to engage with the company to ensure it does not recklessly commit further capital to the project.
Executive Summary

Woodside’s proposed Scarborough and Pluto developments are located in some of the most ecologically and culturally significant areas in the world. Environment and heritage approvals for the project are inherently uncertain due to the complexity of the project, the large number of regulatory authorities involved, and rapidly changing regulatory standards and community expectations. The project is attracting strong interest from environment groups and the broader community which is contributing further to legal and reputational risks.

Information provided to the market by Woodside regarding environmental and heritage approvals for the $16 billion Scarborough and Pluto expansion project has been vague and does not provide the level of detail required for investors to properly assess risks.

This report assists investors and shareholders to understand and evaluate the status of key approvals for the project, and the risks associated with each of these approvals. It shows that less than two months from Woodside’s targeted final investment decision, almost every critical environmental approval for the $16bn development remains highly uncertain, requires updating, or is subject to active legal challenge. An emerging area of legal and reputational risk is also identified around Aboriginal heritage.

Any one of the unresolved approvals identified in this report has the potential to add considerable delays and uncertainty to the Scarborough project. Taken together these risks are multiplied, making Woodside’s planned timeline for final investment a decidedly reckless proposition.

While Woodside appears willing to accept a very high level of risk to see the project proceed, other partners and investors are unlikely to share the same risk appetite. This is evidenced by an agreement by Woodside to buy out project partner BHP for a premium price, in order to achieve alignment on an early investment decision.

To reduce exposure to these risks, it is recommended that potential equity partners and financiers make no investment commitments, and shareholders urge the company not to make further capital allocation decisions until the areas of uncertainty identified in the report are resolved.

The information presented in this report is accurate at the time of publishing and has been compiled through careful analysis of the relevant policy and legislation in consultation with regulatory authorities. Investors are urged to undertake their own due diligence on project approvals by checking the status of approvals with relevant authorities, rather than relying on information provided by Woodside.
Summary of approvals that are still outstanding, in question, or subject to active challenge

<table>
<thead>
<tr>
<th>Approval</th>
<th>Current status</th>
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</thead>
<tbody>
<tr>
<td>Primary state approvals for processing Scarborough gas at Pluto LNG</td>
<td>Subject to active legal challenge in the WA Supreme Court unlikely to be resolved in 2021. Significant source of legal uncertainty.</td>
</tr>
<tr>
<td>NOPSEMA approvals for offshore field development and pipeline including at least four Environment Plans (EP’s)</td>
<td>Only one draft EP submitted, none approved. Approvals will involve assessment and conditions on Scope 3 pollution and other indirect impacts.</td>
</tr>
<tr>
<td>State approvals for recent changes to optimise project to increase rate of production</td>
<td>Not granted and likely to require new environmental impact assessment or risk further legal challenge. Significant source of legal uncertainty.</td>
</tr>
<tr>
<td>Greenhouse Gas Abatement conditions for the Pluto LNG project</td>
<td>Subject to statutory review by the WA EPA which will recommend that the Minister change the current condition. Significant source of legal uncertainty.</td>
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<tr>
<td>State Works Approval for construction of Pluto Train 2</td>
<td>Subject to record number of appeals which remain unresolved. Significant source of legal uncertainty.</td>
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<tr>
<td>Management Plans for pipeline construction</td>
<td>Still outstanding and requires consent from Murujuga Aboriginal Corporation.</td>
</tr>
<tr>
<td>‘Section 18’ Aboriginal Heritage Act approvals</td>
<td>Current approvals do not cover all project impacts to Aboriginal Heritage. Approvals require updating. Significant source of legal uncertainty.</td>
</tr>
<tr>
<td>Commonwealth environmental approvals for Pluto and Scarborough developments</td>
<td>Have not been updated to address impacts of increased gas processing on environment and heritage. Significant source of legal uncertainty.</td>
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</table>
The operating environment and regulatory context for Scarborough

The major components of Woodside’s proposed Scarborough and Pluto LNG project are in sensitive marine environments, and in an area of globally significant Aboriginal heritage proposed for World Heritage Listing. Each element of the project presents different risks and impacts to the environment and cultural heritage.

These elements include:

A. Construction of pipelines and shipping operations in State waters in the Dampier Archipelago the richest area of marine biodiversity in Western Australia. The project involves impacts on coral reefs and multiple protected marine species including whales, turtles, and dugongs.

B. Gas field development and pipelines in Commonwealth waters – The projects involve impacting on habitat for endangered and protected marine species including whales.

C. Operation of very large industrial facilities on the Burrup Peninsula – The LNG production facilities are co-located amongst Western Australia’s most densely concentrated area of Aboriginal Heritage Sites, with over 1 million rock carvings across the landscape, with some dating back over 45,000 years. Thousands of these rock carvings were destroyed or disturbed during construction of Woodside’s LNG facilities under historical section 18 approvals and acid gas emissions from the facilities continues to impact the rock art on the Burrup. The area is on the Register of National Heritage Sites and has been shortlisted for World Heritage Listing.

The proposed developments involve a complex and interacting series of approvals for each major element of the projects, spanning at least five different regulatory authorities. These include:

NOPSEMA – the National Offshore Petroleum Safety and Environmental Management Authority regulates oil and gas activities in Commonwealth Waters. This includes direct and indirect impacts on the environment and decommissioning. The Scarborough gas field and the component of the pipeline in Commonwealth Waters are regulated by this agency.

DAWE and EPBC Act – Approvals under the Environmental Protection and Biodiversity Conservation Act are administered by the Commonwealth Department of Agriculture, Water and the Environment (DAWE). This Act covers environment and heritage impacts on ‘matters of national environmental significance’ including multiple marine species and the National Heritage Place where the Pluto LNG facility is located.

State EPA and ministerial approvals – The WA Environmental Protection Authority (EPA) undertakes Environmental Impact Assessment and recommends conditions on projects under Part IV of the WA Environmental Protection Act. Ministerial approvals are required for all of Woodside’s activities on land and in State waters.

DWER Licences – The WA Department of Water and Environmental Regulation regulates the construction and operation of industrial developments. DWER works approvals and licences are required for the construction and operation of the Pluto LNG facility.

Aboriginal Heritage approvals – ‘Section 18’ approvals are required under the State Aboriginal Heritage Act for activities that impact or alter Aboriginal heritage values.
Analysis of outstanding and uncertain approvals

The following provides an analysis of each of the key outstanding approvals, including current status, and the key risks and uncertainties associated with each approval.

NOPSEMA approvals for Scarborough field development and connector pipeline

Key risks and uncertainties:
Woodside describe the OPP as the ‘primary approval’, however this underestimates the significance and complexity of approvals that are yet to be granted. NOPSEMA apply significantly greater technical scrutiny to the assessment of the EP’s, and it is at this stage where the detailed assessment of impacts begins, and conditions are set.

NOPSEMA has confirmed that the EP’s will be assessed with regard to the EPBC Act Policy Statement - ‘Indirect consequences’ of an action under Section 527E of the EPBC Act’. This will include a requirement for Woodside address Scope 3 emissions and other indirect impacts from the development at this stage, including providing enforceable commitments on how Scope 3 emissions will be mitigated in line with the temperature goals in the Paris Agreement. Other indirect impacts that will require assessment include impacts on Aboriginal heritage and the Dampier Archipelago.

In relation to the development of the Scarborough field itself, significant geological and seal integrity issues have been identified, and there are a range of unresolved issues relating to impacts on marine life and ecosystems which will be assessed by NOPSEMA.

Status:
Not yet granted; delayed and uncertain

Description:
NOPSEMA has accepted a high-level Offshore Project Plan (OPP) for Scarborough, however the main detail of environmental assessments for the field development and pipeline is yet to take place. Only one of four Environment Plans (EPs) has been submitted to NOPSEMA for assessment and none have yet been approved.
State primary approvals for processing Scarborough gas at Pluto LNG facility

Status:
Subject to active legal challenge in WA Supreme Court

Description:
Woodside’s primary State approval for the Pluto LNG facility granted in 2007 (Ministerial Statement 757) was originally limited in scope to processing of gas from the Pluto field only².

At Woodside’s request, the Minister approved a change to the proposal in July 2019 under Section 45C of the Environmental Protection Act to allow processing of gas from Scarborough and other fields. These changes were made without a full environmental impact assessment of the proposed changes.

Key risks and uncertainties:
Changes to existing approved projects can only be made under Section 45C of the Environmental Protection Act in very specific circumstances, designed to protect the environment and ensure adequate assessment and public participation. In particular, changes cannot be made without a new assessment if they might result in significant environmental impacts that are additional to, or different from those that were originally assessed.

While the annual emissions from the Pluto facility may not increase, processing additional gas from the Scarborough field will result in an estimated 1.6 billion tonnes of additional carbon pollution over the life of the project and significantly increase the duration of impact to the Murujuga rock art³.

The Conservation Council of WA commenced proceedings in the WA Supreme Court in December 2020 after long negotiations between CCWA, Woodside and the EPA failed to resolve concerns about the process undertaken for the section 45C decision. The hearing is scheduled to begin on 20 December 2021 and the outcome is not likely to be known until 2022.

If the court finds that the decisions are invalid, Woodside may be required to undertake a new environmental impact assessment under Section 38 of the Act.

State EPA approvals for changes to ‘optimise project’ (including increased pipeline diameter).

Status:
Not yet granted; highly uncertain

Description:
Approvals are required for Woodside’s proposed changes to optimise the project to enable gas to be processed at a faster rate than previously proposed, including through increasing the diameter and flow capacity of the Scarborough tieback pipeline. These changes are key to the economics of the project and without them the project becomes even more marginal.

Key risks and uncertainties:
Woodside is currently seeking approval for these changes under section 45C of the WA Environmental Protection Act rather than a full environmental impact assessment process, as the company claims that the changes will not result in greater environmental impact. Evidence has been submitted to the EPA questioning this, and a decision has not yet been made.

The EPA may conclude that the requested changes cannot be made under section 45C, and instead will require a new environmental impact assessment. This could take many months and could result in new conditions being imposed on the project.

There will be a high degree of public interest in the procedures and legal validity of this decision. Decisions that do not rigorously apply the provisions of the relevant legislation will be subject to a high degree of legal uncertainty.
Pluto LNG environmental approval (conditions on controlling and abating carbon pollution)

Status:
Conditions under statutory review

Description:
The WA Minister for the Environment has ordered a review of conditions to control and mitigate carbon pollution from the Pluto LNG development

Key risks and uncertainties:
The WA EPA is an independent authority charged with protection of the environment. The EPA’s current policy objective for carbon pollution is to ‘Reduce net Greenhouse Gas Emissions in order to minimise the risk of environmental harm associated with climate change’ - however this is currently under review.

The current Greenhouse Gas Abatement Plan (GGAP) for the Pluto LNG facility has been strongly criticised for allowing carbon pollution from the Pluto LNG facility to rise very significantly, in contrast to the EPA’s policy objective. The GGAP allows lifetime carbon pollution from the Pluto facility to increase by nearly 350% (from 476 million tonnes 1.65 billion tonnes) and allows direct pollution to increase (from 1.9MTp/a to 3.5 MT/a). It is estimated that the mitigation measures outlined in the GGAP address just 2% of the project’s overall emissions (including scope 3), largely through offsetting.

Woodside is already over-reliant on uncertain and insecure offsets to meet carbon pollution reduction targets. If the EPA recommends stronger measures to control and abate carbon pollution from the Pluto facility, then this could lead to escalating compliance costs and risks transferred to investors. As facility operator, Woodside’s approach to carbon pollution is to transfer liability to partners based on equity share. This means any equity shareholders could be left liable for escalating costs and responsibility for a portion of the carbon pollution which they cannot do anything to avoid.

There will be a high degree of public interest in the procedures and legal validity of decisions concerning carbon pollution form the Pluto LNG facility. Conditions or assessment processes that do not rigorously apply the provisions of the relevant legislation will be subject to a high degree of legal uncertainty.

DWER Works Approval for construction and commissioning of Pluto Train 2

Status:
Currently under appeal; source of legal uncertainty.

Description:
The Works Approval is provided by DWER and is required to undertake construction and commissioning of Pluto Train 2.

Key risks and uncertainties:
The granting of the Works Approval for the construction of Pluto Train 2 received more appeals than any Works Approval has ever before. This includes appeals from environment groups and Traditional custodians.

Key appeal grounds include unregulated emissions harming ancient rock art, lack of measures to control carbon pollution, lack of scientific evidence and understanding of environment and Aboriginal heritage impacts, and failure to apply the precautionary principle.

Independent of the appeal process, there is a high degree of public interest in the procedures and legal validity of the Works Approval and its conditions. Decisions that do not rigorously apply the provisions of the relevant legislation will be subject to a high degree of legal uncertainty.

The Works Approval is currently in effect and can be acted upon by Woodside before the appeals are finalised, however this would require Woodside and its commercial partners to accept the risk of significant changes, cost overruns and delays if conditions on the Works Approval are amended, or any legal challenge is successful.
Commonwealth environment and heritage approvals (EPBC Act)

Status:
Outdated and uncertain

Description:
Woodside has EPBC Act approvals for its Pluto LNG facility however these have not been updated for over a decade and may not provide authorisation for impacts on nationally and internationally significant cultural heritage.

Key risks and uncertainties:
The original EPBC assessments for the Pluto LNG facility did not consider impacts on Aboriginal heritage or the need to protect World Heritage values as neither had been assessed at the time.

Woodside has not triggered an update of its EPBC approvals and as a result, the company risks having no legal defence against offences causing significant impact to Commonwealth protected heritage and environmental values. Updating EPBC approvals now could take many months, however the alternative is to accept the risk of operating under outdated approvals.

The state of knowledge regarding Commonwealth-protected values continues to change and this remains an inherent risk with the project that is unlikely to be adequately addressed by relying on outdated approvals. Assessment of World Heritage values, and the Murujuga rock art monitoring program will take several years to produce results which may have a significant disruptive impact on Woodside’s operations.

Management Plans for Scarborough nearshore pipeline construction

Status:
Approval not yet granted

Description:
A cultural heritage management plan and dredging management plan are required to be approved by the DWER before construction can commence.

Key risks and uncertainties:
Both management plans require consultation with the Murujuga Aboriginal Corporation (MAC) and further assessment by the DWER. The pipeline construction requires dredging and dumping of dredge spoil in the Dampier Archipelago – Western Australia’s richest area of marine biodiversity.

Conditions may be put on these management plans that result in delays before construction can commence or added costs that have not been anticipated by Woodside.
Aboriginal Heritage (Section 18) permits

Status:
Outdated and uncertain

Description:
Woodside was granted ‘Section 18’ permits under the Aboriginal Heritage Act authorising the destruction or removal of over 100 Aboriginal Heritage sites and many more individual rock carvings when the Pluto facility was first built.

Key risks and uncertainties:
The Section 18 approvals held by Woodside have not been updated since they were originally granted in 2007, despite significant new evidence that emissions from the Pluto facility are impacting Murujuga rock art without approval under the Act (see below).

If concerns by independent scientists and Traditional Owners are validated by rock art monitoring then Woodside could have a Juukan Gorge moment, with similar or worse impacts on social license and disruptions to operations.
Emerging risk – Aboriginal Heritage and Traditional Owner consent

The Pluto LNG production facility is located among the most densely concentrated area of Aboriginal cultural heritage sites in Western Australia, comprising over 2,800 individually recorded heritages sites listed under the WA Aboriginal Heritage Act.

Known as Murujuga, the area contains the world’s largest and oldest collection of Aboriginal rock art, with over 1 million rock carvings extending over a vast area, both on land and below the current sea level. These rock carvings and heritage sites provide a continuous unbroken record of human occupation and evolution for over 40,000 years, including depictions of animals long extinct and the first ever recording of a human face. The Murujuga rock art is now on the shortlist for World Heritage listing and a comprehensive assessment of the World Heritage values will be undertaken by UNESCO under the World Heritage Convention.

Hundreds of rock carvings have already been destroyed or removed to make way for the Pluto LNG facility under historical section 18 approvals, but it is the ongoing damage to the remaining Murujuga rock art due to acid-gas emissions that is most concerning to Aboriginal people and heritage experts today.

Thousands of tonnes of highly acidic gasses are released each year from the LNG production facilities. Peer-reviewed studies show that this atmospheric pollution has increased the level of acidity on the surface of the petroglyphs by 1000-fold. The acid deposition is slowly eating away at the natural ‘varnish’ on the surface of the rocks that has protected the carvings for millennia, leading to irreversible damage to the petroglyphs.

Juukan Gorge in slow motion

Since the Juukan Gorge incident there is a much higher public expectation about protection of Aboriginal Heritage. At the same time, there have been significant developments in the understanding of impacts on Murujuga rock art on the Burrup Peninsula due to industrial pollution from Woodside’s LNG facilities.

Recent assessments of related projects demonstrate this. For example in its recent report on the Perdaman fertiliser proposal the EPA has stated:

“The EPA considers that there may be a threat of serious or irreversible damage to rock art from industrial air emissions”

“Currently, the most significant sources of air emissions within the Murujuga airshed are the Karratha Gas Plant and the Pluto LNG Plant.”

In documents released by FOI relating to the assessment of Woodside’s Browse Basin proposal the DAWE stated:

“The Department considers that the proposed action is likely to have a significant impact on the national heritage values of the Dampier Archipelago (including the Burrup Peninsula) National Heritage Place, specifically, the likely acceleration in the weathering of the petroglyphs.”

“The Department considers that impacts from emissions of NOx, CO2 and volatile organic compounds (noxious emissions) are an indirect, adverse impact that the proposed action is likely to have on the national heritage values of the Dampier Archipelago National Heritage Place.”
Changes to Aboriginal Heritage protection

Reforms to Aboriginal heritage protection are occurring at both State and Commonwealth levels with new legislation promising to provide stronger protection of Aboriginal heritage and stronger rights for Aboriginal people in decisions affecting their heritage.

The Juukan Gorge Senate Inquiry has recommended legislation to enshrine the principles of free, prior and informed consent in decision making, increase penalties for unlawful damage to Aboriginal heritage, and remove gag orders from Aboriginal organisations.

At the same time, shareholder groups and the broader community are expecting improved standards and transparency from resource companies responsible for damaging Aboriginal heritage.

This is a rapidly evolving area carrying significant risks for Woodside. If the Murujuga Aboriginal Corporation and independent experts are correct that the rock art monitoring will show damage to have occurred as a result of pollution from Woodside’s LNG operations then Woodside could have its Juukan Gorge moment, with very significant implications for its ongoing operations and social license.

Free, Prior and Informed Consent on Murujuga

The principle of seeking Free, Prior and Informed Consent (FPIC) from Traditional Owners is a well-recognised principle by the United Nations and many governments, companies and other bodies.

The Burrup and Maitland Industrial Estate Act (BMIEA) extinguishes Native Title from the industrial Estate where Woodside facilities are located, and establishes the Murujuga Aboriginal Corporation (MAC) to manage the cultural heritage values of the area. The MAC Murujuga Cultural Management Plan developed in consultation with the Murujuga Circle of Elders documents the Traditional Owner’s aims for the future, including that:

“MAC to work towards reducing the industrial footprint with an ultimate goal of zero industry on Murujuga”

Like many Aboriginal organisations, MAC is constrained in promoting its objectives by both ‘gag orders’ and funding agreements and there is currently no mechanism for Traditional Owners of Murujuga to provide free, prior and informed consent for industrial development on Murujuga.

The BMIEA Act states:

“...the Contracting Parties agree that the[y] ...will not, in their capacity as owners of the Burrup Non-Industrial Land, lodge or cause to be lodged any objection to development proposals intended to occur on land within the Industrial Estate.”
Evidence provided by Peter Jefferies, CEO of the Murujuga Aboriginal Corporation to the Juukan Gorge Senate Inquiry provides an insight into the current situation facing MAC.

I would like to stand up here today and speak openly and honestly about our experience in consulting and negotiating with major industrial proponents. But the reality is that we have a genuine fear that there will be financial repercussions for MAC if we do that.

The decision to appear here today was a difficult one for us because despite our responsibility to manage Murujuga, our ability to do so is intrinsically linked to the internal approvals process of our proponents and we have funding applications in progress that may become stalled indefinitely as a result of what I say here today.

It is a single, small example of the power that mining companies wield over Aboriginal Corporations. Without breaching any laws, Agreements or conditions of their licence to operate, mining companies have enormous, silent influence over what we do, say and commit to.

We have mining companies operating on our country that are continuing a model of disempowerment and tokenistic consultation with traditional owners and custodians. These mining companies will tell you they consult with us regularly, but their engagement with us is fundamentally insincere and founded in colonialism - they determine when and how to engage with Aboriginal people. They determine what progress, sustainability and success should look like for us.

Any potential investor or joint venture partner should be aware of the issues surrounding Aboriginal heritage and Traditional Owner consent on the Burrup so that they can evaluate the significant risks that are inherent in Woodside’s operations in this environment.

Investor risk and ‘red flags’

The Responsible Investment Association of Australasia (RIAA), in partnership with the First Nations Heritage Protection Alliance has recently published an Investor Toolkit – An Investor Focus on Indigenous Peoples Rights and Cultural Heritage Protection. According to this document:

Investors are the owners of the companies that build on, extract from and interact with land, cultural sites and the First Nations people who are custodians of country. Being the custodians of capital gives investors a great opportunity and a responsibility to ensure that they support responsible engagement with First Nations People.

The Toolkit describes three main areas of risk for companies and their investors:

Litigation risk – including when legally tenuous approvals or agreements are uncovered, reflecting a significant power imbalance between parties at the time of negotiation.

Reputational risk – including loss of trust and willingness to engage from Indigenous communities, difficulty in attracting staff, and public reputational damage / loss of social license.

Operational risk – including unforeseen compensation requirements, loss of key staff and loss of ability to operate in sensitive areas.

The RIAA investor toolkit also describes a number of ‘red flags’ which apply to Woodside, including a lack of commitment to the principles of Free, Prior and Informed Consent (FPIC), a legalistic approach of complying with laws (such as the Aboriginal Heritage Act), and gag orders or confidentiality clauses affecting Traditional Owners.
Woodside’s risk appetite

It is clear that Woodside has a far higher risk appetite when it comes to the Scarborough project than other investors, due to the company’s high degree of dependence on this project for its future growth.

Shortly after his departure from Woodside, in April 2021, ex CEO Peter Coleman told the AFR that ‘The days of big new greenfield LNG projects are now over in Australia and the future is green hydrogen’.

Woodside has failed to heed this advice. The company has made little meaningful progress towards diversifying its revenue streams or identifying credible low-carbon growth alternatives. Instead, the company is in the process of doubling down on high-carbon petroleum production including through the acquisition of BHP’s petroleum assets and the development of the Scarborough project.

While Woodside are prepared to accept very high levels of risk around the Scarborough project, other investors and shareholders are unlikely to share this. This risk appetite differential between Woodside and other investors on the Scarborough project is evidenced by Woodside providing joint venture partner BHP with an option to sell its 26% Scarborough stake to Woodside for a premium of $1bn if the proposed merger between the companies fails to proceed.

This option de-risks the final investment decision for BHP while leaving Woodside carrying even greater risk, as regardless of the progress of the project and any delays that may be encountered, BHP’s Scarborough stake will end up being transferred to Woodside.
Conclusion and recommendations

Woodside plans to spend $16 billion on one of the most controversial and polluting greenfield fossil fuel projects ever to take place in Australia, in an area of globally significant environmental and Aboriginal heritage values that is proposed for World heritage Listing.

The proposed investment comes at a time when the world is rapidly shifting to cheaper and cleaner renewable energy at an increasing pace. While Woodside claims that gas markets will continue to grow in a decarbonising world, modelling by the IPCC, International Energy Agency, Reserve Bank of Australia and others shows that global gas use must peak and decline rapidly in order to achieve the global temperature goals established under the Paris Agreement.

The proposed Scarborough investment also comes at a time of rapidly shifting regulatory standards and public expectations around climate change, Aboriginal heritage, and corporate social responsibility.

Less than two months before the final investment decision, it would be reasonable to expect that environmental approvals for the projects would be complete and de-risked as far as possible, however the opposite is the case.

Analysis of the key approvals shows that every major element of the project is caught in a mess of outstanding, unresolved and outdated approvals, while new and emerging areas of regulatory and commercial risk around Aboriginal heritage and carbon pollution are not adequately addressed.

The overall implication is that the project cannot commence and significant delays, cost overruns and other setbacks are a very high probability.

While Woodside appears to have a very high risk appetite when it comes to the Scarborough and Pluto developments, other investors and shareholders are unlikely to share this.

This report shows that the risks of making a final investment decision to proceed with the Scarborough project now are very great, and that shareholders and investors would be exposed to significant undisclosed risks by Woodside’s decision to commit capital to the project at this time.

Recommendations for investors and shareholders

Any one of the unresolved environmental and heritage approvals identified in this report has the potential to add considerable delays, uncertainty, and costs to the Scarborough and Pluto LNG expansion project. Taken together, these risks are multiplied, representing very significant legal and commercial risks for equity partners, financiers, and shareholders.

In order to reduce exposure to these risks, it is recommended that:

Potential equity partners and financiers make no investment decisions until the following areas of uncertainty are resolved.

Woodside shareholders urge the company not to make further capital allocation decisions on the project until the following areas of uncertainty are resolved.

- Final approvals are granted by NOPSEMA for the Scarborough field development and pipeline, and final conditions (including on scope 3 pollution and indirect impacts of heritage values) are known.
- The outcome of current proceedings before the WA Supreme Court challenging primary approvals for processing Scarborough gas is clear.
- Final state approval is granted for changes to ‘optimise’ the project including increasing the diameter of the tieback pipeline.
- The final conditions for controlling, abating and offsetting pollution from the Pluto LNG facility are known.
- The outcome of appeals process on the Pluto Train 2 Works Approval is known, and the risk of litigation can be evaluated.
- Final approval for Management Plans is granted for the Scarborough nearshore project.
- EPBC approvals are reviewed and updated and assessment of World Heritage values is complete.
- Aboriginal heritage approvals are reviewed and updated and results of rock art monitoring are known.
- Gag orders and other limitations are removed from Traditional Owners of Murujuga, and genuine free, prior and informed consent is obtained for the proposed developments according to contemporary standards and expectations.
Endnotes


7 Concerns for Indigenous rock engravings on WA's Burrup Peninsula | The Drum: https://www.youtube.com/watch?v=SnOeeDMN9TE

8 Fears pollution will destroy world's biggest collection of rock art 'within 100 years' https://www.abc.net.au/news/2021-10-29/fears-murujuga-pilbara-rock-art-at-risk-from-industry-pollution/100572050


10 Murujuga Aboriginal Corporation Cultural Management Plan Ngaayinharri Gumawarni Ngurrangga Action 10

