

MONTARA COMMISSION OF INQUIRY

Held at Level 1, 51 Allara St,
Canberra, ACT

Before The Commissioner, Mr David Borthwick AO

On Monday, 15 March 2010 at 9.30am

1 THE COMMISSIONER: Good morning. We have a short day
2 today. The proceedings will involve Mr Howe QC and
3 Mr Berger, as counsel assisting the Inquiry, making opening
4 statements. Mr Howe?

5
6 MR T HOWE QC: Thank you, Commissioner. Before doing
7 that, could we please have appearances announced for those
8 who have been given leave to appear?

9
10 MR M GRANT QC: If it please the Commission, my name is
11 Grant. I appear with Ms Brownhill of counsel and Dr Herne
12 for the Northern Territory Department of Resources.

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14 MR C COLVIN SC: May it please you, Commissioner, my name
15 is Colvin. I appear with Mr Quinlan and Mr Cooper for
16 Atlas Drilling and Seadrill.

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18 MR G ABBOTT: May it please you, Mr Commissioner, my name
19 is Abbott. I appear with Mr Beech, Ms Noonan and
20 Ms Harrison for PTTEP.

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22 MR P CASH: I appear here with Mr Tsacalos for the
23 Commonwealth Department of Resources, Energy and Tourism.

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25 MS G LLEWELLYN: May it please you, Mr Commissioner, my
26 name is Gilly Llewellyn. I appear for WWF Australia.

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28 MR HOWE: Thank you. What I propose to do is to commence
29 with a brief opening, and then, as the Commissioner
30 foreshadowed, it will be necessary to adjourn until
31 tomorrow morning, at which time the evidence of the first
32 witness will be taken.

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34 The Inquiry had made arrangements for a witness to be
35 present today so that the Inquiry could immediately
36 commence with the taking of evidence, but unfortunately,
37 for reasons outside the control of the Inquiry which arose
38 at the very end of last week, it was necessary to make
39 other arrangements, and the witness we had scheduled for
40 today will be called later in the week.

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42 Prior to 21 August 2009, Australia had not seen an oil
43 spill of the magnitude of the uncontrolled release of oil
44 and gas from the Montara wellhead platform in over
45 20 years. The volume of oil spilled from the Montara
46 wellhead platform makes the blowout Australia's
47 third-largest oil spill after two tanker oil spills in 1991

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Notably, however, the blowout the subject of this Commission of Inquiry is the worst of its kind in Australia's offshore petroleum industry history.

In August 2009, the top of the well from which the blowout emanated reached approximately 28 metres above sea level. In the early hours of 21 August 2009, a small so-called burp of oil and gas was reported as having escaped from the well, being the H1 well. The oil and gas had travelled a distance of nearly 4 kilometres from the reservoir beneath the seabed.

Whilst the initial burp subsided, approximately two hours later the well kicked again with such force that a column of oil and fluid, including gas, was expelled from the top of the well, through the hatch on the top deck of the wellhead platform, hitting the underside of the drilling rig and cascading into the sea.

For a period of just over 10 weeks, oil and gas continued to flow, more or less unabated, at a rate between 400 and 2,000 barrels per day, into the Timor Sea, some 200 kilometres off the north-west coast of Australia.

Where the actual volume of oil falls within this change is a matter of conjecture, though it is thought unlikely to have been toward the upper limit. Various estimates put the spill as having covered somewhere between 5,000 and 25,000 square kilometres, including, to some extent, having entered Indonesian waters. Shortly before the flow was stopped, the oil and gas flowing from the Montara oilfield ignited and burned at approximately 350 degrees for two days.

The events that led to the blowout on 21 August 2009 could have had potentially catastrophic consequences, including the loss of human life and far-reaching pollution of marine and shoreline ecosystems.

Fortunately, no human life was lost. However, the implications and consequences of the blowout are broad and wide ranging, including for the environment, for the petroleum industry and for the Australian system of regulation of offshore petroleum operations.

1 While the observed and known impact of the oil on
2 wildlife appears to have been relatively limited, it is
3 highly unlikely that the full environmental consequences of
4 the blowout will ever be known, in particular because the
5 oil spill occurred in and spread across a vast and remote
6 area. The Inquiry understands that it will be practically
7 impossible to quantify the actual impact of the blowout on
8 wildlife in the Timor Sea.

9
10 On 5 November 2009, the Honourable Martin Ferguson,
11 member of parliament, Minister for Resources and Energy,
12 pursuant to section 780E of the Offshore Petroleum and
13 Greenhouse Gas Storage Act 2006, which I will simply refer
14 to as "the Act", announced this Commission of Inquiry to
15 inquire and report to the Minister in relation to the
16 following matters:

17
18 1. The likely causes and circumstances of the
19 blowout.

20
21 2. The adequacy and effectiveness of the regulatory
22 regime applicable to the operations in the Montara
23 oilfield.

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25 3. The performance of persons who have engaged at any
26 time in petroleum-related operations at the Montara
27 wellhead platform that may have contributed to the blowout
28 in carrying out their regulatory obligations.

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30 4. The adequacy and effectiveness of the monitoring
31 and enforcement activities of the regulators.

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33 5. The adequacy of the response to the blowout by the
34 owner and/or operator of the Montara wellhead platform and
35 West Atlas rig.

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37 6. The adequacy of the regulatory obligations
38 applicable to the owner and/or operator of the Montara
39 wellhead platform and the West Atlas rig in relation to the
40 response to the blowout.

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42 7. Any environmental impacts arising as a consequence
43 of the blowout.

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45 8. The offshore petroleum industry's response to the
46 blowout.

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1 9. The accessibility of relevant information to
2 affected stakeholders and the public.

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4 10. Any recommendations as appropriate that might
5 help to prevent or mitigate the effects of similar
6 incidents in the future.

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8 11. Such other matters relevant to and arising from
9 the blowout.

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11 This Inquiry, in holding a public hearing, seeks to
12 address the major contested issues relating to the blowout
13 having regard to the material thus far obtained by the
14 Inquiry. These contested issues, in the assessment of
15 counsel assisting, relate in particular to terms of
16 reference 1 to 4, being the cause of the blowout, the
17 adequacy of the regulatory regime and the performance of
18 regulatory obligations by relevant persons and entities
19 connected to the wellhead platform and the West Atlas rig.

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21 There are, of course, a number of other significant
22 issues that arise under the terms of reference for
23 consideration by the Inquiry. However, it is presently
24 considered that those issues can be satisfactorily pursued
25 without the exercise of compulsory powers in the context of
26 a public hearing.

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28 As counsel assisting, we note and emphasise that the
29 terms of reference of the Inquiry do not call for the
30 Inquiry to seek to determine the civil liability of any
31 person or entity with respect to the cause of the blowout.
32 Nor is the Inquiry required to consider any issues of
33 entitlement to compensation as a consequence of the
34 blowout.

35
36 I turn now to a brief treatment of the blowout itself.
37 Whilst the risks of a major uncontrolled release of
38 hydrocarbons occurring are relatively low, the consequences
39 can be catastrophic. As a result, each stage of
40 exploratory drilling through to production is or should be
41 governed by systems and technologies that are designed to
42 reduce risk to the maximum extent reasonably practicable,
43 with considerable in-built back-up capabilities.

44
45 The technologies and systems are not new. They are
46 proven and they work to maintain well integrity, if
47 correctly applied. It seems clear that a fundamental

1 responsibility of companies involved in offshore petroleum
2 exploration and production is to ensure, as far as
3 practicable, the security of the wells they are drilling.
4

5 In Australia, the offshore petroleum exploration and
6 production industry is governed by a complex regulatory
7 regime. The current regime is a result of a move in the
8 mid-2000s towards a less prescriptive and more
9 outcomes-based regulation of the offshore petroleum
10 industry.

11
12 The preliminary view of counsel assisting is that in
13 relation to matters of wellhead integrity, a greater level
14 of prescription may be necessary to ensure compliance with
15 the apparently nebulous concept of "good oilfield
16 practice".
17

18 I propose now to set out briefly the facts relating to
19 the circumstances and cause of the blowout that we
20 currently understand to be uncontroversial. PTTEP
21 Australasia (Ashmore Cartier) Pty Limited, who I shall
22 refer to here after as "PTT", is the holder of a production
23 licence AC/L7 for petroleum and the owner of the Montara
24 oilfield development. PTT was granted the licence in March
25 2007.
26

27 Atlas Drilling Pte Limited, a sister company of
28 Seadrill Management Pte Limited and hereafter referred to
29 as "Atlas", was at all material times the operator of the
30 West Atlas jack-up rig, which I will call "the West Atlas
31 rig", or "the rig". PTT engaged Atlas, as operator of the
32 West Atlas rig, to perform drilling operations in the
33 Montara oilfield.
34

35 The workers on board the West Atlas rig were
36 predominantly Atlas employees. There were a total of
37 69 personnel on board the West Atlas rig at the time of the
38 blowout.
39

40 The Northern Territory Director of Energy, who I will
41 simply refer to as "the Northern Territory", was the
42 delegate of the Commonwealth for the purposes of monitoring
43 and enforcing regulatory standards and requirements
44 relating to the Montara oilfield development.
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46 In November 2008, PTT sought and was granted approval
47 by the Northern Territory to batch drill three development

1 wells in the Montara oilfield. PTT later sought approval
2 to batch drill two additional wells.

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4 Between January and April 2009, the West Atlas rig was
5 positioned over the Montara wellhead platform, located in
6 waters approximately 77 metres deep, for the purpose of
7 drilling four petroleum production wells and one gas
8 injection well.

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10 On 27 February 2009, while the derrick of the West
11 Atlas rig was positioned over the H1 well, PTT applied to
12 the Northern Territory to change the course of the H1 well.
13 The process of changing the course of a well is known as
14 sidetracking. The reason PTT sought to sidetrack the
15 H1 well was to enable access to a cleaner section of the
16 reservoir into which PTT had already drilled a 12 and a
17 quarter inch hole.

18

19 On 2 March 2009, the Northern Territory granted
20 approval to PTT to sidetrack the H1 well. The H1 well
21 thereafter became known and is referred to in
22 contemporaneous documents as the H1-ST1 well, but, for
23 convenience, I shall continue to refer to it as the
24 "H1 well".

25

26 Between 2 and 7 March 2009, PTT continued to drill the
27 H1 well to a measured depth of 3,796 metres, as measured
28 from the rotary table on the West Atlas rig. The total
29 direct vertical depth from the rotary table was
30 2,654 metres.

31

32 On 6 and 12 March 2009, PTT sought approval from the
33 Northern Territory to suspend the H1 well, with the foot of
34 the 9 and 5/8 inch casing in the reservoir, by installing
35 pressure-containing corrosion caps on the 9 and 5/8 and
36 13 and 3/8 casings, instead of a shallow-set cement plug
37 within the 9 and 5/8 casing, as originally planned.

38

39 For convenience, I shall hereafter refer to
40 pressure-containing corrosion caps as simply "PCCs".

41

42 The Northern Territory granted PTT approval to suspend
43 the well in the manner requested.

44

45 On 7 March 2009, PTT pumped an amount of cement into
46 the 9 and 5/8 inch casing shoe, being the bottom-most
47 lengths of the casing. At that point, the casing was

1 located inside the reservoir. This was to set the casing
2 shoe in the wellbore and to produce a barrier within the
3 casing and in the space, or annulus, between the 9 and 5/8
4 casing and the drilled internal surface of the wellbore.

5
6 Having subsequently held the pressure in the casing to
7 4,000 psi, 16.5 barrels of fluid returned, apparently from
8 beneath the float collar in the casing shoe.

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10 The return of 16.5 barrels of fluid, following the
11 pressure test of the casing to 4,000 psi, indicated to PTT
12 personnel at the time that there was a problem with the
13 float valves in the casing shoe.

14
15 Consequently, PTT pumped the 16.5 barrels of fluid
16 back down the casing, toward the casing shoe, and closed
17 off the top of the casing in order to maintain pressure in
18 the wellbore whilst the cement set.

19
20 Following so-called wait on cement, which is referred
21 to in contemporaneous documents as WOC, a 9 and 5/8 PCC was
22 installed on the H1 well, followed by a so-called trash
23 cap, and the derrick of the West Atlas rig was moved or
24 skidded from the H1 well to the H4 well.

25
26 Whilst it is apparent that until 20 August 2009, PTT
27 management on shore believed that a PCC had also been
28 installed as required on the 13 and 3/8 casing in the
29 H1 well, we now know that this did not in fact occur.
30 No-one has been able to provide, to this point, a
31 satisfactory explanation to the Inquiry as to why the 13
32 and 3/8 PCC was not installed on the H1 well.

33
34 On 21 April 2009, the West Atlas rig departed from the
35 Montara wellhead platform in order to perform drilling
36 operations in other fields. At that point, or perhaps even
37 earlier in March, the H1 well was placed in some form of
38 suspension, there being some dispute as to the exact form
39 and whether it was temporary or long term or somewhere
40 between the two.

41
42 On 19 August 2009, the West Atlas rig returned to the
43 Montara wellhead platform to allow PTT to commence the
44 tie-back of the casing stump of each of the five wells to
45 the platform and to complete the drilling of the four
46 production wells into the oil-bearing zone of the
47 reservoir.

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At 4.30am on 20 August 2009, the derrick of the West Atlas rig skidded over to the H1 well. At 6am on the same day, the trash cap was removed from the H1 well. It then became clear to rig personnel that there was no PCC installed as required on the 13 and 3/8 casing of the H1 well.

As a consequence of the non-installation of the 13 and 3/8 PCC, the threads at the top of the 13 and 3/8 casing, called the mud line suspension, or MLS, threads, had rusted or corroded. In order to tie the 13 and 3/8 casing back to the wellhead platform on a long-term basis, PTT personnel on the rig and on shore decided that those threads should be cleaned.

At around 11.30am, the 9 and 5/8 PCC was then removed from the H1 well in order to allow a tool to be run in to clean the MLS threads on the inside of the 13 and 3/8 casing. The 9 and 5/8 PCC was not thereafter reinstalled.

At that time, rig personnel considered that there were two barriers within the H1 well to prevent a blowout of fluids from the reservoir: firstly, the cemented casing shoe; and, secondly, a column of inhibited seawater within the 9 and 5/8 casing, which was thought to have a so-called kill weight, having regard to its specific gravity compared to the specific gravity or pore pressure of the reservoir.

Significant work on the H1 well was placed in abeyance or suspended at that point, pending the tie-back of casings on other wells. It seems to have been intended that the well would remain in the state that it was in for several days before being secured by the installation of a BOP, being a blowout preventer.

At around 5pm on 20 August 2009, the derrick of the West Atlas rig was skidded to the gas injector well, referred to in the contemporaneous documents as "GI", and work was carried out on that well between about 6.30pm and midnight on 20 August 2009.

At midnight on 20 August 2009, the derrick of the West Atlas rig was skidded to the H4 well.

At about 5.30am on 21 August 2009, workers on the Montara wellhead platform observed a blowout of fluid

1 coming from the H1 well. The volume was estimated at
2 between 40 and 60 barrels. Gas alarms on the West Atlas
3 rig were triggered and emergency response procedures were
4 activated.

5
6 The flow appeared to subside and the West Atlas rig's
7 offshore installation manager gave the all clear at around
8 5.55am.

9
10 At about 6am on 21 August 2009, a decision was made to
11 skid the derrick from the H4 well back to the H1 well in
12 order to set a mechanical pressure isolation device in the
13 H1 well to prevent further flow.

14
15 At around 7.23am on 21 August 2009, the H1 well kicked
16 again, this time blowing a column of oil and gas to the
17 underside of the rig floor. Emergency response procedures
18 were once again activated, and over the next hour or so
19 senior PTT and Atlas personnel on board the rig and
20 wellhead platform decided to evacuate the 69 personnel.
21 All of those personnel were then safely evacuated from the
22 rig and the wellhead platform.

23
24 Control of the immediate response to the blowout was
25 handed to the Australian Maritime Safety Authority, AMSA,
26 in accordance with a plan known as "The National Plan to
27 Combat Pollution of the Sea by Oil and Other Noxious and
28 Hazardous Substances". PTT continued to assist AMSA in
29 coordinating vessels and aircraft to support AMSA's
30 response to the oil spill.

31
32 PTT contacted Alert Well Control, an international
33 well control specialist, to assist and advise in relation
34 to possible options for containing the uncontrolled
35 release, including deluging the wellhead platform and West
36 Atlas rig and implementing surface capping of the H1 well.

37
38 On 22 August 2009, the National Offshore Petroleum
39 Safety Authority, NOPSA, issued a prohibition notice in
40 respect of each of the wellhead platform and the West Atlas
41 rig. The notices prohibited any work on either facility
42 which required personnel to be present on the West Atlas
43 rig or the wellhead platform.

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45 On 23 August 2009, AMSA commenced dispersant spraying
46 operations over areas with heavy concentrations of oil.
47 AMSA continued to dispatch dispersants until 1 November

1 2009.

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Also on 23 August 2009, PTT decided to drill a relief well as a possible means of quelling the blowout of the H1 well. PTT continued, however, to consider the deluge and surface capping options.

In order to drill a relief well, PTT had to identify another drilling rig that could be utilised for this purpose. PTT has informed the Inquiry that it made a number of inquiries as to the availability of drilling rigs in the vicinity of the Montara oilfield, but all nearby rigs were either under contract or unsuitable for the purposes of drilling a relief well in the circumstances.

On 23 August 2009, PTT contracted another Atlas-owned rig, the West Triton, which was at that time located in Batam, Indonesia. PTT continued to make inquiries as to the availability of other rigs that might have been able to get to Montara sooner than the West Triton rig. On 27 August 2009, the West Triton rig left Singapore and arrived at Montara on 11 September 2009, approximately 2 kilometres from the wellhead platform.

From 5 September 2009 until 3 December 2009, AMSA conducted containment and recover operations using a 300 metre containment boom with a skimmer to recover oil.

On 14 September 2009, the West Triton rig commenced the drilling of the relief well. The Inquiry has been told that in order to successfully drill the relief well to kill the H1 well blowout, the team on board the West Triton rig had to locate and intersect the 9 and 5/8 casing of the H1 well at a depth of some 2,700 metres below sea level.

Once the H1 well had been intersected, the West Triton rig would pump a large quantity of heavy mud into the 9 and 5/8 casing of the well in order to overcome the flow of hydrocarbons and thereby kill the well.

On 6, 13, 17 and 24 October 2009, the West Triton made four unsuccessful attempts to intersect the H1 well.

On 9 October 2009, PTT and the Department of Environment, Water, Heritage and the Arts, agreed upon a plan called "The Monitoring Plan for the Montara Well Release, Timor Sea", with a view to providing ongoing

1 monitoring of the environmental impacts of the blowout.

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On 1 November 2009, the H1 well was intersected and heavy mud was pumped into the 9 and 5/8 casing. At about 12pm on the same day, a fire broke out on the wellhead platform beneath the cantilever of the West Atlas rig. The Inquiry has no information as to how the hydrocarbons ignited.

On 3 November 2009, sufficient quantities of heavy mud had been pumped into the H1 well to stop the blowout. The main fire was said to have been extinguished at about 1548 Darwin time on 3 November 2009, and a so-called kill of the H1 well blowout was declared at 1715 Darwin time.

The Inquiry has heard that 320 barrels of cement were pumped into the H1 well, and on 30 November 2009 an inflatable packer was installed in the well to secure it. Because the pressure testing of the inflatable packer did not complete, two isolation packers were installed with a view to installing an inflatable packer along with a 13 and 3/8 PCC at a later date.

On 13 January 2010, PTT announced that operations to secure the H1 well were complete.

I shall now briefly consider the major issues for investigation at this public hearing. Those major issues concern the cause or causes of and the circumstances surrounding the blowout, including the nature and extent of regulatory oversight of relevant matters. Those issues just described arise under terms of reference 1, 2, 3 and 4.

Counsel assisting wish to emphasise at the outset that concentration on these major issues at this public hearing should not be interpreted as suggesting that the other terms of reference are considered to be less important.

Indeed, terms of reference 10 and 11 appear to have a pre-eminent importance, because they direct attention to what lessons can be learned from this incident so as to help ensure that a similar incident does not occur in the future.

However, we note that terms of reference 10 and 11 require the Commissioner to investigate and form views

1 about the causes of and circumstances surrounding the
2 blowout.

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4 Terms of reference 6, 7, 8 and 9 will be the subject
5 of some evidence from AMSA at this public hearing. Those
6 terms of reference deal with the environmental aftermath of
7 the blowout.

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9 Given the extent and general thrust of the information
10 which the Inquiry has thus far obtained in relation to
11 these terms of reference, which includes information
12 acquired compulsorily, it is presently considered that most
13 of the issues which arise pursuant to these terms of
14 reference do not require the public exercise of compulsory
15 powers to resolve.

16

17 However, to reassure persons with a particular
18 interest in the environmental aftermath of the incident, we
19 can indicate that the Inquiry is, outside the process of
20 this public hearing, giving much attention to these terms
21 of reference, including an examination of the following
22 sorts of issues:

23

24 why it took 10 weeks for PTT to finally secure the
25 H1 well;

26

27 the defensibility of the decision by AMSA to use the
28 dispersants that were used;

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30 the defensibility of the net environmental benefit
31 analysis carried out by AMSA prior to and during the use of
32 dispersants;

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34 the adequacy of the water sampling regime implemented
35 by AMSA, particularly in relation to the spread of oil and
36 its impact on sensitive subsurface ecosystems, such as fish
37 larvae and coral spawn;

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39 the adequacy of the environmental monitoring plan;

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41 whether the approach taken by NOPSA in relation to the
42 issue and maintenance of the prohibition notices applicable
43 to the platform and rig was an appropriate approach; and

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45 whether other alternative options, such as controlled
46 ignition, were or should have been considered.

47

1 The above-stated issues are illustrative only.
2 However, as already noted, the major issues to be addressed
3 in the course of this hearing relate to the causes of and
4 circumstances surrounding the blowout. It is to these
5 issues which I now turn.

6
7 They can be broadly divided into four general subject
8 areas, all of which concern, to some extent or other, the
9 question of blowout barriers. The first general topic is
10 the cementing of the 9 and 5/8 casing shoe and annulus on
11 the H1 well in March 2009.

12
13 The second broad topic concerns the installation of a
14 9 and 5/8 PCC in March 2009 and the non-installation of a
15 13 and 3/8 PCC in April 2009.

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17 The third broad subject area concerns the suspension
18 of the H1 well in and around March/April 2009.

19
20 The final broad subject area concerns the actions
21 taken upon re-entry of the H1 well in August 2009 in the
22 lead-up to the blowout.

23
24 I shall now briefly address each of those four broad
25 subject areas in a bit more detail.

26
27 Firstly, as to the cementing of the 9 and 5/8 casing
28 shoe and annulus on the H1 well in March 2009 - within that
29 broad subject area, a large number of subtopics arise for
30 consideration. First, it appears that incorrect volumes of
31 cement were used when the casing shoe was cemented in March
32 2009.

33
34 PTT admit, in their submissions to the Inquiry, that
35 133 barrels of tail cement were used, whereas 199 barrels
36 of tail cement should have been used to achieve what's
37 called top of cement, or TOC, 50 vertical metres in height
38 above the reservoir.

39
40 How and why did this occur? Why was the mistaken
41 calculation concerning the volume of cement not detected at
42 the time? What systems were in place to ensure that
43 correct volumes of cement would be used in order to achieve
44 top of cement above reservoir? What was the effect of
45 using the wrong volume of cement in terms of the integrity
46 of the cemented casing shoe as a barrier?
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1 In this regard, both PTT and Atlas seem to accept that
2 use of the wrong volume of cement might have allowed
3 leakage of reservoir fluid into the cement, thereby
4 compromising its effectiveness as a barrier.
5

6 We understand that Atlas say this might have
7 contributed to the blowout, but we understand this to be
8 disputed on the part of PTT, apparently on the basis that
9 the blowout is thought to have occurred within the 9 and
10 5/8 casing rather than from the space outside that casing
11 called the annulus.
12

13 Secondly, after the cement was put into the casing
14 string, it was initially thought that a seal had been
15 created in what's called the float shoe by what is called a
16 bumping of the two plugs, which preceded and followed the
17 cement. However, although the two plugs might have bumped
18 initially, it seems to be accepted that the two plugs did
19 not in fact achieve an effective seal against backflow from
20 beneath the casing shoe in the 9 and 5/8 casing of the
21 H1 well. There was a backflow of 7.25 barrels after
22 pressure was released. That is, 9.25 barrels of seawater
23 were introduced into the casing to pressure test it, but
24 when pressure was released after 10 minutes, 16.5 barrels
25 came back, being the original 9.25 barrels and an
26 additional 7.25 barrels.
27

28 Significantly, the backflow of 7.25 barrels may have
29 comprised formation fluid, cement, or a mix of both, from
30 beneath the casing shoe. The backflow of 7.25 barrels
31 suggested a problem. It suggested that the cementing of
32 the casing shoe lacked integrity.
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34 As a consequence of a discussion between PTT personnel
35 on the West Atlas rig and on shore, the 16.5 barrels were
36 forced back down at a pressure of 1,350 psi, and that
37 pressure was held for several hours.
38

39 In effect, an extra 9.25 barrels of seawater was
40 forced beneath the casing shoe and had to go somewhere. It
41 seems to be accepted by both Atlas and PTT that this might
42 have compromised the integrity of the cementing by
43 introducing multiple worm holes, or channels, in the cement
44 within the casing and in the annulus around the casing, or
45 the casing shoe. Alternatively, it seems to be accepted by
46 both Atlas and PTT that this might have displaced cement
47 from within the shoe track and around the casing shoe,

1 leaving those areas wet.

2
3 A real issue arises as to whether pumping back
4 16.5 barrels and holding pressure at 1,350 psi conformed to
5 PTT's own well construction standards and/or good oilfield
6 practice.

7
8 PTT apparently accepts that following failure of the
9 floats, no validating test was carried out after the cement
10 had set in order to check or confirm the integrity of the
11 cementing of the casing shoe. As we understand it, both
12 PTT and Atlas accept that the failure to carry out such a
13 test was a root cause of the subsequent blowout.

14
15 PTT says, however, that this failure was consistent
16 with various applicable well control documents issued by
17 both it and Atlas. Issues arise as to the expertise and
18 competency of some of those involved in the cementing
19 operation and the adequacy of PTT's and Atlas's
20 self-regulating standards of well control.

21
22 The upshot appears to be that the cementing of the
23 casing shoe may not have conformed to good oilfield
24 practice. If so, such non-compliance may amount to a
25 breach of applicable regulatory requirements, and those
26 requirements will be explained in more detail in a little
27 while by Mr Berger.

28
29 It should be noted that in PTT's original submission
30 to the Inquiry late last year, it asserted that after
31 pumping back the 16.5 barrels, "there was no reason to
32 suspect at that time that the backflow had compromised the
33 cement job". PTT also asserted, in that submission, that
34 the cemented casing shoe was a tested permanent barrier
35 which conformed to well control standards.

36
37 As we understand it, PTT now accepts that PTT
38 personnel on the West Atlas rig should have been alert to
39 risks associated with cementing of the casing shoe and
40 should have been more forthcoming when assistance was
41 sought about the problem from PTT personnel located on
42 shore.

43
44 In relation to the cementing of the casing shoe, the
45 positions taken by Atlas and PTT raise issues about their
46 records management and their communication arrangements
47 both within and between those two entities.

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Could I turn to the next broad subject area, being the installation of a 9 and 5/8 PCC in March 2009 and the non-installation of a 13 and 3/8 PCC in April 2009.

Can I say at the outset that a real issue arises in these proceedings as to the general barrier status of PCCs. An issue also arises as to the propriety, significance and implications of the Northern Territory having approved PTT's use of PCCs as barriers.

In assessing these matters, it may be relevant that PTT apparently represented to the Northern Territory that the cemented casing shoe was a properly tested, permanent and primary barrier.

We now know that although PTT intended to install a 13 and 3/8 PCC, and represented to the Northern Territory that it had in fact done so, no such PCC was in fact installed. PTT apparently accept that it is not in a position to advance a satisfactory explanation as to why the 13 and 3/8 PCC was not installed. PTT personnel on shore had been told in writing by PTT personnel on the rig that the PCC had been installed.

Accordingly, the non-installation of the 13 and 3/8 PCC raises issues concerning stores management, records management, activity and risk management and the quality of communication protocols on the rig and between rig and onshore personnel.

It is noteworthy that Atlas identifies the non-installation of the 13 and 3/8 PCC as a root cause of the subsequent blowout, but PTT, as we understand it, denies this to be the case in a recent submission to the inquiry.

So far as the 9 and 5/8 PCC is concerned, PTT now appear to accept that it was not tested for integrity at the time it was installed. It had been rated by the manufacturer to withstand pressure of 10,000 psi, but at least one senior PTT person on shore will give evidence that he expected that the PCC would be tested after installation to ensure that it was working properly, noting that so doing would confirm the absence of any damage to any component of the device during installation.

1 Could I turn next to the suspension of the H1 well in
2 and around March and April 2009. This broad topic directs
3 attention to whether the suspension of the H1 well at that
4 time was reasonable and/or compliant with PTT's own barrier
5 standards and with good oilfield practice.
6

7 As we understand it, Atlas answers these questions in
8 the negative. PTT's position is less clear to us. Some
9 PTT personnel allege that the suspension of H1 well between
10 April and August 2009, during which time the West Atlas rig
11 had left the Montara oilfield, was a short-term or
12 temporary suspension rather than a long-term suspension
13 within the meaning of PTT's well construction standards.
14

15 However, whatever view is ultimately taken of that
16 issue, other important issues arise. For instance, were
17 PTT's well construction standards adequately expressed,
18 given the seemingly significant divergence of views that
19 they had generated as to their meaning?
20

21 Secondly, even if the suspension was temporary or
22 short term within the meaning of PTT's well construction
23 standards, was such suspension compliant with those
24 standards? That is, was there a verified and tested
25 permanent barrier and a verified temporary barrier in
26 place?
27

28 Thirdly, even if the suspension was compliant with
29 PTT's own standards, did such suspension comply with good
30 oilfield practice?
31

32 Could I next turn to the topic of the actions taken
33 upon re-entry of the H1 well in August 2009 in the lead-up
34 to the blowout? There are at least three subtopics which
35 arise for consideration under this heading. Firstly, the
36 discovery of the non-installation of the 13 and 3/8 PCC.
37 Atlas, for its part, says this should have prompted an
38 investigation into barrier conditions. PTT seem to dispute
39 this.
40

41 Secondly, the removal and non-reinstallation of the
42 9 and 5/8 PCC. The 9 and 5/8 PCC was removed some 15 to
43 17 hours immediately prior to the blowout. Had it been
44 left in place, or reinstalled, it seems likely that it
45 would have prevented the blowout, assuming, of course, that
46 the PCC had not been damaged in any way and was functioning
47 properly. This is because the 9 and 5/8 PCC was screwed on

1 top of the 9 and 5/8 casing, and PTT accepts that the
2 blowout most likely occurred from within the 9 and 5/8
3 casing.
4

5 Atlas, for its part, says that the removal and
6 non-reinstallation was a root cause of the blowout and
7 should have been raised at the very least with senior Atlas
8 personnel on shore pursuant to the so-called change control
9 protocols which were in place.
10

11 As we understand it, PTT deny this. PTT characterise
12 the removal and non-reinstallation of the 9 and 5/8 PCC as
13 a mere change in sequence and timing rather than a change
14 in substance.
15

16 Thirdly, was it compliant with applicable standards to
17 leave the H1 well in the state it was in when, on
18 20/21 August 2009, batched tie-back operations commenced on
19 the other wells after the tie-back of the casing on the
20 H1 well? At that point, the H1 well had the following
21 barrier characteristics: firstly, a problematic cemented
22 casing shoe, whereby the casing shoe track and the rat hole
23 beneath the casing shoe may have been left either wet or
24 with worm-holed cement lacking integrity; secondly, cement
25 in the 9 and 5/8 annulus, which might also have given rise
26 to gas migration problems from the formation or reservoir;
27 thirdly, no PCC or any other mechanised barrier was in
28 place; finally, inhibited seawater in the 9 and 5/8 casing
29 string, which may not have been overbalanced to the pore
30 pressure of the formation.
31

32 As to the last-mentioned matter, whether or not the
33 fluid in the casing was overbalanced to formation pressure
34 and thereby constituted an effective barrier, PTT has
35 submitted to the Inquiry that it has verified that the
36 specific gravity of the inhibited seawater in the casing
37 did exceed the specific gravity of the formation. Counsel
38 assisting has not, to this point at least, seen raw data
39 which substantiates that claim.
40

41 As things presently stand, there is considered to be
42 reason to believe that the fluid was not hydrostatically
43 overbalanced to formation pore pressure, namely, the
44 occurrence of the blowout itself.
45

46 Before passing to Mr Berger to outline the key
47 features of the regulatory regime applicable to the Montara

1 oilfield, I mention the following: neither counsel
2 assisting nor the Commissioner have formed any conclusions
3 about matters which we understand to be contested. Indeed,
4 we have not formed unshakeable views about any matters at
5 all. If my use of language in the above opening suggests
6 otherwise, I emphasise, for abundant caution, that at this
7 stage no firm conclusions have been formed by the Inquiry
8 about anything.

9
10 The Inquiry expects to hear from the following
11 witnesses over the next couple of weeks: PTT personnel who
12 were on the West Atlas rig at relevant times, Atlas
13 personnel who were on the West Atlas rig at relevant times,
14 other contracted personnel who were involved in the
15 cementing of the casing shoe, PTT personnel who were on
16 shore at relevant times, Atlas personnel who were on shore
17 at relevant times, Northern Territory personnel who
18 performed a regulatory role in relation to the Montara
19 oilfield, and AMSA in relation to the aftermath of the
20 blowout.

21
22 I shall now pass to Mr Berger, who will do his best to
23 keep you spellbound in relation to the intricacies of the
24 regulatory regime.

25
26 MR BERGER: As Mr Howe's opening statement suggested, it
27 is likely that in the course of this hearing words and
28 phrases like joint authority, designated authority, good
29 oilfield practice, WOMP, well construction standards,
30 safety case, the specific requirements, the physical change
31 of a wellbore and other such things will be bandied around
32 frequently. It is also likely that the meaning, content
33 and responsibilities imposed by such phrases will be
34 canvassed in considerable detail.

35
36 In this opening statement, I aim to briefly outline,
37 probably not in spellbinding detail, the aspects of the
38 legislative and regulatory regime governing offshore
39 petroleum production that appear most relevant to
40 paragraphs 1 through to 4 of the terms of reference, which,
41 as Mr Howe has indicated, will be the focus of this public
42 hearing.

43
44 It essentially begins in 1967, with the Petroleum
45 (Submerged Lands) Act, which we will refer to in this
46 public hearing as the "PSL Act" for short. For a number of
47 years, it was the primary legislation regulating such

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matters.

The PSL Act was repealed and replaced by the Offshore Petroleum Act of 2006, which commenced on 1 July 2008. Shortly after that, further amendments were made, and the name of the legislation was changed to the Offshore Petroleum and Greenhouse Gas Storage Act 2006, which, as Mr Howe noted, we will refer to as "the Act" for short.

The Act's transitional provisions are set out in schedule 6. It contains a number of provisions which continue in operation various things done under the PSL Act, even though it is repealed. This includes matters relating to the granting of petroleum production licences, such as the licence granted to PTT, which, until February 2009, was called Coogee Resources (Ashmore Cartier) Pty Limited, which occurred on 20 March 2007, as well as the obligations imposed on the holders of such licences.

Part 1(3) of the Act creates what is known as a joint authority and designated authority for each of the external territories and the offshore areas for those territories. This includes, significantly, in the course of the Inquiry, the territory of Ashmore and Cartier Islands, which is where the Montara wellhead platform is located.

Part 1(3) of the Act also allows the functions and powers of these positions to be delegated by written instrument. The joint authority is the top of the administrative hierarchy and is concerned with significant decisions arising under the Act. Examples include determining areas to be opened for exploration permits and granting and cancelling petroleum production licences.

The designated authority is responsible for the day-to-day administration of petroleum activities. The Minister for Resources and Energy, the Honourable Martin Ferguson, member of parliament, is both the joint authority and the designated authority for the external territory of Ashmore and Cartier Islands and its offshore area.

On 25 August 2008, the Minister revoked all existing delegations and, amongst other things, delegated his joint authority, powers and functions to the person who, from time to time, holds, occupies or performs the office of general manager, Offshore Resources Branch from the Resources Division of the Department of Resources, Energy

1 and Tourism. This is currently Mr Martin Squire.

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and Tourism. This is currently Mr Martin Squire.

He also delegated his designated authority powers and functions to the Director of Energy, Department of Regional Development, Primary Industry, Fisheries and Resources of the Northern Territory, which is now somewhat more simplistically called the Department of Resources, following a restructure. This is currently Mr Jerry Whitfield. We will, on occasions, refer to this position as either the "DA" or, as Mr Howe has said, the "Northern Territory". However, we note that, in doing so, we will normally not be referring just to Mr Whitfield but also to the staff from the Northern Territory Department of Resources who assist him to fulfil his role.

It was therefore the Northern Territory who was responsible for overlooking the requirements bearing on the integrity of the H1 well.

In its submission to the Inquiry, the Department of Resources, Energy and Tourism described the Commonwealth's role in the way in which each state or territory discharges its obligations as a DA in the following way:

The Commonwealth is not able to dictate nor determine the manner in which individual States or the Northern Territory approach their obligations or the amount of resources they dedicate to administering and managing the regulatory regime in their particular jurisdiction. Nor has it ever purported to do so (although, as discussed below, it has been active in the preparation and promotion of various protocols and guidelines).

The submission continues:

As a result, it is inevitable that differences may have emerged over time. That is, there will be differences between the manner in which each State and the NT discharges its obligations as DA (or delegated DA) and undertakes the day to day administration and management of offshore petroleum environment and resource management activities in their respective

1 *offshore areas. It has never been the*
2 *Commonwealth's approach to stipulate the*
3 *manner in which a DA or a delegated DA will*
4 *carry out its functions or exercise its*
5 *powers.*
6

7 Given the potentially catastrophic consequences if
8 something relating to petroleum exploration or recovery
9 goes wrong, it is perhaps not surprising that the Act and
10 its subordinate regulations impose a number of significant
11 obligations on titleholders and operators of offshore
12 facilities, such as PTT.

13
14 Chapter 6 of the Act imposes requirements that must be
15 complied with by titleholders in relation to, amongst other
16 things, work practices and insurance.

17
18 Section 569 of the Act requires a registered holder of
19 a petroleum production licence to, amongst other things,
20 ensure that they do the following things in their licence
21 area: firstly, carry out all petroleum exploration and
22 recovery operations in a proper and workmanlike manner and
23 in accordance with good oilfield practice; and, secondly,
24 prevent the escape of petroleum.

25
26 This is certainly not the last time the Inquiry will
27 hear the phrase "good oilfield practice". What exactly
28 good oilfield practice would have been in relation to
29 certain key events that occurred on the Montara wellhead
30 platform is likely to be a key focus of this public hearing
31 and the Inquiry more broadly.

32
33 The Act states that it is an offence to do either of
34 the two things previously mentioned, but it is a defence if
35 all available and reasonable steps were taken to attempt to
36 do so.

37
38 Clause 9 of schedule 3 of the Act requires the
39 operator of a facility to take all reasonably practical
40 steps to ensure, amongst other things, that the facility is
41 safe and without risk to the health of any person at or
42 near the facility. Clause 10 imposes similar requirements
43 in relation to a person who is in control of any part of a
44 facility or any particular work carried out at a facility,
45 and clause 11 creates similar duties for an employer in
46 relation to their employees.
47

1 I turn now to the Petroleum (Submerged
2 Lands)(Management of Well Operations) Regulations of 2004,
3 which are the crucial regulations governing well drilling
4 and other operation matters.

5
6 Historically, the Petroleum (Submerged
7 Lands)(Management of Well Operations) Regulations
8 referenced a specific list of minimum engineering standards
9 that must be met on a well. That list was entitled
10 "Specific Requirements as to Offshore Petroleum Exploration
11 and Production". It is commonly referred to as "the
12 schedule" or "the specific requirements". We will refer to
13 it as the latter.

14
15 The specific requirements contained prescriptive
16 standards in relation to such things as, firstly, pressure
17 testing after cementing of the casing shoe, and this
18 included a requirement that there be a satisfactory result
19 before operations to complete a well commenced.

20
21 It also contained prescriptive requirements in
22 relation to notifying the DA if there was any reason to
23 suspect a faulty cementing operation, as well as the use of
24 cement plugs, as opposed to such things as PCCs, as
25 barriers when suspending a well.

26
27 These minimum prescriptive standards appear to mirror
28 standards applied in the United States currently. Such
29 minimum prescriptive standards are also still used in a
30 number of countries which have large offshore drilling
31 industries. Canada, the United Kingdom and Norway are
32 examples.

33
34 The Inquiry has received a number of submissions which
35 suggest that if these prescriptive standards relating to
36 drilling were followed by PTT, the blowout would not have
37 occurred. Whether this is the case and whether PTT was
38 required to or should have been required to comply with the
39 specific requirements relating to drilling are matters the
40 Commissioner may wish to consider carefully. I will
41 elaborate further on this last point shortly.

42
43 The regulations were revised in 2004 to allow for
44 flexibility of arrangements to accommodate changes to
45 technologies and other circumstances while adhering to the
46 key legislative principles. We will refer to these
47 regulations in short as "the management of well operations

1 regulations".

2
3 Notwithstanding the repeal of the PSL Act on 1 July
4 2008, the management of well operations regulations remain
5 in force under the transitional provisions in clause 4 of
6 schedule 6 to the Act.

7
8 An essential part of the flexibility that the 2004
9 amendments to these regulations sought to introduce is the
10 development of a WOMP. That specifies acceptable methods
11 of conducting well operations in accordance with sound
12 engineering principles and good oilfield practices. Such a
13 WOMP must be accepted by the DA.

14
15 The object of the management of well operations
16 regulations is to ensure that for petroleum exploration,
17 appraisal and production, the design of down-hole
18 activities is in accordance with good oilfield practice,
19 down-hole activities are carried out in accordance with an
20 accepted well operations management plan, and risks are
21 identified and managed in accordance with sound engineering
22 principles and good oilfield practice.

23
24 A WOMP must, amongst other things, comply with the Act
25 and regulations. It must also be appropriate for the
26 nature and scale of the well activity. It must also show
27 that the risks identified by the titleholder in relation to
28 the well activity will be managed in accordance with sound
29 engineering principles, standards, specifications and -
30 that phrase again - good oilfield practice.

31
32 A WOMP must also include the following unless the
33 designated authority has given permission in writing not to
34 include such information: information about the conduct of
35 the well activity, and, secondly, an explanation of both
36 the philosophy of and criteria for the design,
37 construction, operational activity and management of the
38 well and, also, the possible production activities of the
39 well showing that the well activity and all associated
40 operational work will be carried out in accordance with
41 good oilfield practice.

42
43 On 7 November 2008, Coogee Resources, as it then was,
44 wrote to the Northern Territory seeking, amongst other
45 things, acceptance of its WOMP for the Montara development
46 drilling operations. The WOMP said:

47

1 *This WOMP describes Coogee Resources'*
2 *management system which ensures that the*
3 *risks associated with the activities*
4 *relating to the drilling, completion, and*
5 *suspension of the Montara H1 development*
6 *well are managed in accordance with good*
7 *oilfield design and engineering practices.*
8

9 The WOMP purported to meet the requirement to show that the
10 risks identified by the titleholder in relation to the
11 well activity will be managed in accordance with sound
12 engineering principles, standards, specifications and good
13 oilfield practice by referring to all sections of Coogee's
14 well construction standards. It is therefore counsel
15 assisting's preliminary view that, in this way, PTT's well
16 construction standards were incorporated into its WOMP.
17

18 "WOMP", for those who aren't aware, stands for "well
19 operations management plan".
20

21 The WOMP is a primary move away from the prescriptive
22 requirements. This move away from prescriptive
23 requirements appears to pass certain responsibilities to
24 both titleholders and the DAs responsible for regulating
25 them. If titleholders don't plan and conduct their
26 drilling processes in a way that systematically assesses
27 and manages risks, including the consequences of something
28 going wrong, and the DA does not have in place a robust
29 approval, monitoring and enforcement regime to ensure that
30 titleholders are indeed following good oilfield practices,
31 the avoidance of potentially catastrophic consequences may
32 be left to chance.
33

34 Regulation 17 of the management of well operations
35 regulations states that a titleholder must not commence
36 any of the following well activities that would lead to the
37 physical change of a wellbore without the approval of the
38 DA: firstly, well drilling; secondly, testing; thirdly,
39 well completion; fourthly, abandonment or suspension of a
40 well; and, fifthly, well intervention. Regulation 17 also
41 notes that other well activities that do not alter the well
42 configuration, such as wireline activities, require only
43 notification to the DA.
44

45 Mr Howe has outlined in detail some of the crucial
46 approvals sought by PTT and granted by the DA in relation
47 to the Montara development.

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On 23 March 2007, Mr David Errington, the petroleum registrar of the Department of Primary Industries, Fisheries and Mines of the Northern Territory, wrote to Mr Andy Jacob, the chief operating officer of Coogee, as it then was called, advising that the petroleum production licence AC/L7 had been granted. The letter also served a direction from the DA pursuant to section 101 of the PSL Act, which relevantly stated:

I ... do hereby direct Coogee Resources (Ashmore Cartier) Pty Ltd ... to comply, in relation to operations carried out by them ... with the requirements set out in the Schedule to this Direction, and I further direct that those requirements are in addition to and to be read as part of, and where necessary, as amending, the Directions entitled "Specific Requirements as to Offshore Petroleum Exploration and Production in Waters under Cth Jurisdiction - Nov 2005 ("the Specific Requirements").

The letter from Mr Errington purported to serve the direction pursuant to section 101 of the PSL Act on PTT, as well as the schedule to the direction, "Specific requirements as to the offshore petroleum exploration and production", dated November 2005, which were defined in the covering letter as "the schedule".

In its submission to the Inquiry, the Northern Territory Department of Resources states that this direction required Coogee Resources to comply with the technical, operational and other stipulations contained in the specific requirements. However, there seems to be some uncertainty on the part of both PTT and the Northern Territory in relation to which version, if any, of the specific requirements PTT was required to comply with and in what circumstances.

Why PTT did not comply with a number of significant aspects of the specific requirements relating to drilling, whether it was justified in not doing so and what, if any, role this may have played in the blowout are matters that will hopefully become clearer in the course of this public hearing.

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Regulation 25 of the management of well operations regulations is also potentially relevant to matters to be canvassed during the public hearing. It provides that a titleholder must not commence or continue a well activity if either a well integrity hazard has been identified in relation to the well or there has been a significant increase in an existing risk in relation to the well and the titleholder has not controlled the well activity, integrity, hazard or the risk.

I turn now to the Offshore Petroleum (Safety) Regulations of 2009. These regulations commenced on 1 January 2010. They replace a number of regulations dealing with occupational health and safety, diving safety and other such matters.

The primary objectives of the regulations that are relevant to the Inquiry are to ensure that offshore petroleum facilities are designed, constructed, installed, operated and modified only in accordance with safety cases that have been accepted by the safety authority, which in this case is NOPSAs, the National Offshore Petroleum Safety Authority.

At the time of the blowout, the Petroleum (Submerged Lands)(Management of Safety on Offshore Facilities) Regulations of 1996, which I will refer to as "the 1996 regulations", were in force. Both part 3 of those regulations and chapter 2, part 2 of the regulations that replace them, which I will call "the 2009 regulations", set out the requirements for safety cases on an offshore facility.

In this case, both Atlas's West Atlas drilling rig and PTT's wellhead platform constituted such an offshore facility. Both then and now, a safety case needed to, amongst other things, firstly, be comprehensive and integrated; secondly, provide for all activities that will or are likely to take place at or in connection with the facility; thirdly, provide for the continual and systematic identification of hazards to health and safety of persons at or near the facility; fourthly, provide for inspection, testing and maintenance of the equipment and hardware that are the physical control measures for those risks; and, fifthly, provide for any other matter that is necessary to ensure that the safety management system meets the

1 requirements and objects of the regulations.

2
3 The operator of a facility was also, at the time of
4 the blowout, required to: establish and maintain a
5 documented system of coordinating and controlling the safe
6 performance of all work-like activities of members of the
7 workforce, as well as describe the means by which the
8 operator will ensure the adequacy of the design,
9 construction, installation, maintenance or modification of
10 the facility after the relevant stage or stages in the life
11 of the facility for which the safety case has been
12 submitted and, in particular, an adequate means of
13 maintaining the structural integrity of the facility.

14
15 Regulation 50 of the 1996 regulations, which was in
16 force at the time of the blowout, prohibited work on an
17 offshore facility if there had been a significant new risk
18 to health and safety or a significant increase in an
19 existing risk to health and safety arising from the
20 construction, installation, operation or modification of
21 the facility and the new risk or increased risk was not
22 provided for in a safety case that was in force or in a
23 revised safety case that was submitted to and accepted by
24 NOPSA.

25
26 To quote from Messrs Bills and Agostini in their
27 Report on Offshore Petroleum Safety Regulation of June
28 2009:

29
30 *In a complex, high hazard industry such as*
31 *offshore oil and gas, society expects a*
32 *robust regulatory regime in which operators*
33 *maintain safety to minimise the risk of a*
34 *major accident event and regulators provide*
35 *assurance that this is being done.*

36
37 The fact that the blowout occurred in the regulatory and
38 legislative regime I have outlined above suggests that the
39 Inquiry needs to consider matters such as the following:

40
41 Firstly, to what extent did PTT and Atlas fail to do
42 the work that the Northern Territory and NOPSA had approved
43 them to do?

44
45 Secondly, if PTT had done what it had been approved to
46 do by the Northern Territory, would the blowout have
47 occurred?

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Thirdly, should the Northern Territory have realised, on the basis of what it was told at the time, that the events in or around 7 March 2009 created an unacceptable risk that the casing shoe did not constitute an adequate primary barrier preventing hydrocarbons from entering the H1 well?

Fourthly, was the Northern Territory sufficiently diligent in ensuring that principles of good oil management were being followed by PTT? In this regard, one area of concern to counsel assisting is that when PTT applied to suspend the H1 well using a 9 and 5/8 inch PCC instead of a cement plug as a barrier, this approval appears to have been granted in precisely 30 minutes.

Fifthly, was there a sufficient means of discovering inadequacies in PTT's operations?

And, lastly, if not, was this because the Northern Territory failed to follow good contemporary regulatory practice and, if so, what factors contributed to this and how can they be avoided in the future?

A thorough consideration of these matters, as well as the matters raised by Mr Howe, both in this public hearing and by the Inquiry more generally, may reduce the likelihood of an event like the blowout happening again.

Last but not least, I turn to the aspects of the environmental legislative and regulatory regime that are relevant to matters to be covered in this public hearing.

As Mr Howe indicated, towards the end of the public hearing the Inquiry will hear evidence from a senior AMSA officer concerning matters relating to AMSA's response to the blowout. To help put the evidence that the Inquiry will hear in context, it is worthwhile noting a number of aspects of the regulatory regime that surrounded these events.

The Montara development is subject to environmental regulation under both the Act and its subordinate regulations, as well as the Environment Protection and Biodiversity Conservation Act 1999, or the EPBC Act, as it is commonly referred to and we will refer to it as.

1 Both the Petroleum (Submerged Lands)(Management of
2 Environment) Regulations 1999 and the conditions of
3 approval imposed under the EPBC Act required PTT to produce
4 what is referred to as an Oil Spill Contingency Plan. How
5 helpful this Oil Spill Contingency Plan proved to be in
6 responding to the blowout is something the Inquiry is
7 considering.

8
9 The National Plan to Combat Pollution of the Sea by
10 Oil and Other Noxious and Hazardous Substances, or "the
11 national plan", as we will call it, has been in operation
12 since 1973 for the purpose of bringing together the
13 resources of the Commonwealth, the states and the Northern
14 Territory, as well as the oil industry, in order to provide
15 a level of preparedness to the threat posed to the marine
16 environment by oil and chemical spills.

17
18 One of the key documents of the national plan is the
19 National Marine Oil Spill Contingency Plan, or the National
20 Oil Spill Plan, as we will call it.

21
22 Under section 6 of AMSA's governing legislation, the
23 Australian Maritime Safety Authority Act of 1990, AMSA is
24 responsible for, among other things, the combat of
25 pollution in the marine environment. One of AMSA's primary
26 areas of responsibility is the protection of the
27 environment through the national plan.

28
29 AMSA's role under the national plan is one of
30 coordination, technical advice, logistical and maintenance
31 support, materials and training. AMSA has also entered an
32 agreement with the Australian Institute of Petroleum for
33 mutual assistance and access to the national plan and
34 Australian Marine Oil Spill Centre, or "AMOSC", as we will
35 refer to it, stockpiles.

36
37 Matters relating to this are one of the things the
38 Inquiry is considering in addressing term of reference 8.

39
40 The national plan defines the responsibilities of the
41 Commonwealth, states, the Northern Territory and industry
42 in responding to marine pollution incidents. In a response
43 to an oil spill, there is both what is called a statutory
44 agency and a combat agency. The statutory agency is the
45 relevant government agency assigned the oversight of the
46 response, institution of prosecutions and the recovery of
47 clean-up costs. The combat agency is the government agency

1 or company assigned the operational responsibility for
2 responding to an oil spill in accordance with the national
3 plan.
4

5 Where an oil spill originates from an offshore
6 petroleum operation in Commonwealth waters, as occurred in
7 this case, a number of things happen. The designated
8 authority becomes responsible for performing the statutory
9 agency role under the national plan, and the combat agency
10 is the relevant company, in this instance PTT, with
11 assistance from the statutory agency.
12

13 As Mr Howe touched upon, shortly after the blowout PTT
14 formed the view, undoubtedly correctly, that the response
15 required exceeded its capability, and it therefore passed
16 combat agency responsibilities to AMSA.
17

18 The national plan is funded by levies on the shipping
19 industry rather than any imposition on the petroleum
20 industry.
21

22 Whilst a consideration of such matters will not occupy
23 a significant portion of this public hearing, as Mr Howe
24 indicated, the Inquiry has been and will continue to give
25 much attention to these and other matters raised by terms
26 of reference 5 through to 11.
27

28 MR HOWE: May it please, that concludes the opening
29 statements of counsel assisting, and I ask that the
30 proceedings be adjourned to tomorrow morning at 9.30am, at
31 which time we anticipate taking the evidence of a senior
32 person from Atlas.
33

34 THE COMMISSIONER: Thank you, Mr Howe. We will resume
35 tomorrow morning at 9.30am.
36

37 **AT 11.06AM THE COMMISSION WAS ADJOURNED**
38 **TO TUESDAY, 16 MARCH 2010 AT 9.30AM**
39
40
41
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45
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47

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