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Meetings and Documents review
c/- Better Business Communications Unit
Market Conduct and Digital Division
Treasury
Langton Cres
Parkes ACT 2600
via email: meetingsanddocumentsreview@treasury.gov.au

Dear Treasury

RE: STATUTORY REVIEW OF THE MEETINGS AND DOCUMENTS AMENDMENTS CONSULTATION

Woodside Energy Group Ltd (**Woodside**) recognises the importance of shareholder participation, transparency and good corporate governance.

Woodside welcomes the opportunity to comment on the Australian Government's Statutory Review of the Meetings and Documents Amendments (**Review**). Woodside's submissions, as set out in Attachment 1, are limited to the consultation questions relating to meetings.

Woodside's experience

Since 2022, Woodside has held its AGM as a hybrid meeting allowing attendees to attend in person or online via a virtual meeting platform. In preparing its submission, Woodside has reflected on the impact of the Amendments and other particular issues encountered by Woodside which Woodside believes warrant consideration as part of the Review. By way of summary, Woodside notes:

- the substantial and increasing costs associated with holding AGMs, in particular, in the case of physical and hybrid AGMs, the costs associated with an in-person venue with sufficient capacity to accommodate several hundred attendees and, in the case of hybrid AGMs, the additional costs associated with an online platform for shareholders to watch the AGM, vote and ask questions;
- Woodside has experienced increased online participation in its AGM. Since 2022 on average 75% of attendees have attended the meetings online compared with 25% attending in person;
- the lack of flexibility or discretion in relation to holding virtual only meetings due to the Corporations Act requiring an express provision in a company's constitution permitting virtual meetings; and
- concerns for the safety of shareholders, proxyholders, employees, management, directors and others attending AGMs in person, as a result of security threats from both third parties and shareholders and proxyholders (often representing shareholders with minimal shareholdings) attending the AGM in person.

Woodside's recommendations

Woodside recommends the following legislative reforms be made to address the issues experienced in relation to the conduct of meetings:

- amending the Corporations Act to provide companies with the discretion and power to hold fully virtual AGMs (with no physical attendance) without the need for an express constitutional power to do so; and

- amending the Corporations Act to provide companies with the discretion and power to prevent shareholders, proxyholders and other shareholder representatives from attending the AGM in person, where the company reasonably believes that the person(s) may:
 - pose a genuine risk to the safety and security of other shareholders, proxyholders, employees, directors, and other AGM attendees; and/or
 - significantly impact the ability of companies to conduct an AGM in an efficient and orderly manner.

Further questions and clarifications

Woodside appreciates the opportunity to provide its views. Should you wish to discuss the matters raised in this submission, please do not hesitate to contact me.

Yours sincerely



Rebecca McNicol

Vice President – Legal & Group General Counsel

Attachment 1 – Woodside’s submissions in response to the Consultation Questions on meetings

How has the experience of running company or registered scheme members’ meetings changed since the amendments? What have been the effects of the amendments on the costs of holding AGMs or other meetings?

Woodside has, since 2022, held its AGM as a hybrid meeting which allows attendees to attend in person at the physical venue or online using a virtual meeting platform.

The costs associated with holding AGMs, particularly physical and hybrid meetings, are significant and have increased since the amendments. For physical and hybrid meetings, these costs include venue hire, security costs, and, in the case of hybrid meetings, the additional cost of access to the online meeting platform and associated technology costs. There is also additional internal management time and internal costs associated with the logistics of coordinating both the physical and virtual components.

For Woodside, the total cost of the 2024 AGM was substantial.

For Woodside, the cost of a virtual-only AGM would be significantly lower than for hybrid meetings and physical-only meetings. While the cost differential between a physical-only meeting or a hybrid meeting is less significant, those meeting formats do not achieve the same benefits of increased safety, accessibility and lower participation cost for shareholders as a virtual-only meeting.

How have the amendments affected members’ participation in meetings and has this affected the exercise of shareholder rights or corporate governance?

We note that concerns were raised when the Amendments were passed in 2022, including around the potential for:

- directors to take advantage of the physical disconnect to disregard or avoid questions;
- companies grouping and filtering multiple questions to answer them with a single, broad and generic response;
- lack of knowledge of whether all shareholder questions were asked and answered since they were not necessarily linked to a specific shareholder;
- online attendees being provided insufficient time to vote.

In our experience, these concerns have not been borne out in the hybrid meetings Woodside has held, or in the other hybrid or virtual meetings held by other large ASX-listed companies. We note that:

- the company is required to give shareholders as a whole a reasonable opportunity to ask questions, meaning the chair of the meeting must take steps to ensure that as many shareholders as possible have the opportunity to ask questions;
- as with a physical meeting, there is no legal obligation on the company to put *every* question submitted to the meeting, and there may be good reasons not to do so (eg it is offensive and defamatory, or repetitive of questions already asked). Where a question relates solely to an individual’s issues (eg as a customer), companies will often seek to address those in a different forum as it may not be appropriate for the AGM;
- the Chair of the meeting must balance the need to give shareholders a reasonable opportunity to ask questions with the need to maintain orderly conduct of the meeting. In some cases this may mean that repetitive questions on the same topic are grouped together to enable an efficient response, or where a meeting is running for a very long time (eg Woodside’s recent AGM was over 4 hours long) it may be necessary to curtail debate on an item of business to ensure all items of business get appropriate time and focus;

- it is common market practice for a moderator to read out both the name of the shareholder and their question (where written questions are submitted online), so shareholders are aware that their questions have been addressed;
- ASIC has issued guidance recommending that companies keep records of questions submitted at hybrid and virtual meetings; and
- with regard to voting, it is common for companies to open the voting at the start of the meeting to allow sufficient time to vote for those attending both online and in person. In addition, shareholders are encouraged to submit a proxy vote ahead of the meeting in case there are any technical issues which preclude them from attending the meeting.

As such, in our view there are no meaningful barriers to shareholder participation in virtual meetings and indeed virtual meetings often facilitate greater participation for shareholders who would be unable to attend in person (eg shareholders residing overseas, interstate or in rural areas). At Woodside’s 2024 AGM, less than 1% of the total votes were cast by shareholders present in person at the meeting.

Some shareholders may also prefer to attend virtual meetings given the security concerns associated with physical attendance (outlined below).

If improvements are needed to better facilitate members’ participation and corporate governance, what improvements could be made to the conduct of online or hybrid meetings?

In recent years, Woodside has experienced disruption and threats to the safety of attendees at its AGMs from shareholders, proxyholders and third parties. This includes attempts to release industrial stench gas and homemade smoke flares within the AGM venue and other security threats directed at Board members and senior executives. Other security issues experienced at Woodside’s recent AGMs¹, include:

- individuals attempting to bypass security and approach the directors on stage;
- the forced removal of attendees who presented an ongoing disruption to proceedings (including after they had been asked by the Chair to come to order);
- individuals circumventing the main entry to the AGM and attempting to enter through unauthorised entry points; and
- the attempted use of smoke flares.

These tactics interfere with members’ ability to participate frustrating one of the core purposes of an AGM.² We have witnessed many retail shareholders in attendance express frustration at individuals who interrupt and disrupt an AGM.

These tactics also pose security and safety risks to those individuals attending AGMs in person. These security threats have occurred at Woodside’s AGMs despite the presence of Western Australian Police (**WAPOL**) and implementing extensive security measures such as bag check protocols and security wanding for all persons entering the meeting venue. Further detail on Woodside’s security concerns is provided below.

In our view, implementing safety protocols is a necessary and appropriate response to the risk posed but involves significant costs.

¹ In connection with the incident at Woodside’s 2023 AGM two individuals were charged with Aggravated Burglary with Intent. As at the date of this submission, the court process for these charges has not yet been finalised.

² See section 250S(1) of the Corporations Act.

Is the use of wholly online meetings an objective of companies and registered schemes? Why or why not? If it is the objective, what is impeding the greater use of wholly online meetings by companies and registered schemes?

Since the Amendments came into effect, few ASX-listed companies have had the option to hold virtual only meetings due to the requirement in section 249R of the Corporations Act. Woodside’s Constitution does not expressly permit it to hold a virtual only meeting. As such, for Woodside to hold a virtual only meeting it would need to amend its Constitution which requires support of at least 75% of votes cast by shareholders at a general meeting.

Woodside understands that some shareholder groups and proxy advisors are generally opposed to virtual only meetings and have not supported constitutional amendments to permit virtual only meetings when proposed by other large ASX listed companies. This means the requirement in section 249R of the Corporations Act imposes a significant hurdle for companies that wish to hold a virtual only meeting (including those where other considerations such as security threats would otherwise warrant holding of a virtual only meeting).

In our view, amending the Corporations Act to allow a company to hold a virtual only meeting regardless of its constitutional provisions is appropriate and desirable. Specifically, Woodside notes that:

- The security and physical/ personal safety issues experienced by Woodside and other large ASX listed companies would be mitigated by holding a virtual only meeting. A virtual only meeting would provide a safer alternative for shareholders, employees, directors, and other attendees at the AGM without compromising a members’ ability to participate.
- The costs associated with a virtual only meeting are significantly less than the cost of a hybrid meeting and a physical only meeting.
- Since 2022 on average 75% of attendees have attended the meetings online compared with 25% attending in person. At Woodside’s 2024 AGM, less than 1% of the total votes were cast by shareholders present in person at the meeting.
- The flexibility to hold virtual-only meetings already occur in a number of overseas jurisdictions, including several US States.

The nature of the security and safety risks against Woodside have escalated in recent times, as evidenced by the deliberate release of industrial stench gas at Woodside’s corporate headquarters resulting in injury to a number of employees and targeted action at the family residence of Woodside’s CEO.

Given the above, we note ASX-listed companies have limited options to preclude the physical attendance of a shareholder, proxyholder or other shareholder representative where the company reasonably believes that the person may:

- pose a genuine risk to the safety of other AGM attendees; and/or
- significantly impact the ability of companies to conduct an AGM in an efficient and orderly manner.

Under the Corporations Act, a company is required to ensure that *all* members entitled to attend the meeting are given a reasonable opportunity to participate in the meeting.³ This requirement applies regardless of how many shares a member holds or any threat a member presents to the safety or efficacy of the AGM’s proceedings. A failure to comply with this requirement provides scope for a court to rule the meeting as invalid.⁴ It is therefore open for individuals to exploit this right to attend AGMs with the primary purpose of engaging in disruptive activity - for example, by purchasing one Woodside share, or by appointing two proxyholders to attend on behalf of the shareholder or by splitting shareholdings and being represented at the meeting by multiple persons. While some constitutions, including Woodside’s Constitution, specifically empower the chairperson of an AGM to

³ See section 249S(1) of the Corporations Act.

⁴ See section 1322(3A) of the Corporations Act.

take any action he or she considers appropriate for the safety of persons attending the meeting in person, it is not clear how these provisions interact with the legal rights of shareholders to attend the meeting or whether those provisions can be used to exclude shareholders or their representatives who are reasonably likely to pose a safety or security threat during the meeting.

Woodside is concerned it could be criticised or even penalised for excluding shareholders or their representatives from physically attending an AGM on the basis they pose a security or safety risk or would cause significant disruptions.

In this regard, Woodside notes the duty to ensure, so far as practicable, the health and safety of their workers while they are at work⁵ and to ensure that its workplace is without risk to health and safety of any person.⁶ We understand this duty would extend to any employees present at Woodside’s AGM, whether the meeting was conducted at a Woodside premises or otherwise. Woodside also considers it has a duty to protect, so far as practicable, the safety of shareholders and other attendees at the AGM.

In order to better balance companies obligations under the Corporations Act to allow shareholders to participate in AGMs and companies obligations under health and safety laws, we suggest amendments to the Corporations Act to permit a company to exclude persons who are legally entitled to attend a meeting (i.e. shareholders, proxyholders and other authorised representatives of shareholders) from physically attending where the company reasonably believes that the person(s) may:

- pose a genuine risk to the safety of other AGM attendees; and/or
- significantly impact the ability of companies to conduct an AGM in an efficient and orderly manner.

Have you experienced technological issues when running or attending a meeting with an online component? If yes, what were they, were they addressed, and how did this occur?

No. Woodside has not experienced any technological issues in running the virtual component of its AGMs that have impacted members’ ability to participate effectively in the meeting.

Have you observed any significant differences in governance, shareholder participation, meeting conduct or quality between companies that have listed after the 2022 amendments and those that listed prior to the amendments?

Woodside is not in a position to comment on this question.

How have the mandatory poll voting requirements affected the conduct of meetings and determining the opinion of members?

Woodside already had a practice of determining resolutions via a poll prior to the Amendments. Our practice is for the Chair of the AGM to open the poll on all resolutions early in the meeting to provide maximum flexibility and opportunity for members to vote, noting that not all members remain for the full meeting. In our view, the mandatory poll voting requirements are appropriate and facilitate an effective, streamlined voting experience for shareholders and proxyholders.

Have there been any issues with submitting or complying with requests for independent reports on polls?

⁵ Work Health and Safety Act 2020 (WA) section 19

⁶ Work Health and Safety Act 2020 (WA) section 20

Woodside has not received any requests for independent reports on the polls conducted at its AGMs since the Amendments.

Are there lessons that Australia could take from other jurisdictions’ experiences with online or hybrid members’ meetings?

A number of foreign jurisdictions allow for virtual only shareholder meetings under legislation, without changes being required to a company’s constitution or articles of association to specifically permit a virtual only meeting format. New Zealand, Singapore, India and Malaysia are all examples of countries that have a legal framework that supports virtual only meetings. In addition, several US states allow for virtual only meetings and as a consequence many large listed companies in the US hold virtual only meetings - including the vast majority of the S&P100 in 2023.⁷

The experience in New Zealand, where virtual only meetings have been permitted for over 10 years, is that the proportion of companies utilising virtual only meetings varies from year to year, based on consideration of the most appropriate format for the company each year. Giving New Zealand companies the ability to determine the most appropriate meeting format still gives shareholders as a whole a reasonable opportunity to participate in the meeting and has not diminished the accountability of the company to its shareholders.

How have the amendments affected the effective operation of directors’ meetings?

Use of technology to hold directors’ meetings is important for Woodside given its directors reside in multiple locations across the world, reflective of the global nature of Woodside’s business. While we continue to see value in holding some of our Board meetings face to face, we have welcomed the Amendments formalising the discretion to hold directors’ meetings using technology.

⁷ See <https://www.computershare.com/us/news/in-person-annual-meetings-preferred-2023>