AUSTRALIAN COMPETITION & CONSUMER COMMISSION

# Submission to the Commonwealth Gas Market Review

**22 August 2025**

## Acknowledgement of Country

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

Australian Competition and Consumer Commission
Land of the Ngunnawal people
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# Overview

Natural gas will play a critical role in Australia's transition to lower emissions. As we increasingly rely on renewables for electricity generation, gas will be required to support energy security, reliability and affordability, while remaining an important source of energy and feedstock for residential, commercial and industrial users.

The Gas Market Review provides a critical opportunity to consider how policy settings can best serve the interests of gas users, promote a well-functioning market and enable emissions reduction targets to be met efficiently and at least cost.

## Addressing underlying constraints on supply and competition should be a first order priority

The Gas Market Code (Gas Code), the Commonwealth Heads of Agreement with LNG producers (HoA) and the Australian Domestic Gas Security Mechanism (ADGSM) collectively seek to promote a well-functioning gas market, adequate and secure supply, downward pressure on prices and improved selling practices.

However, the ACCC's gas inquiry has found that projected east coast supply is unlikely to be enough to meet demand from 2028 despite there being sufficient reserves and resources for at least the next decade. Upstream markets remain dominated by the Queensland LNG producers and their associates, who influence over 90% of east coast reserves. With depleting fields in the Gippsland Basin, the southern market is projected to increase its reliance on gas transported from Queensland and potentially imported gas. The lack of effective upstream competition is contributing to the imbalance in bargaining power faced by gas buyers and their difficulties securing gas on competitive terms.

Barriers to supply and greater gas market efficiency are longstanding and precede the introduction of the Gas Code, HoA and ADGSM. Each of these instruments were introduced and/or amended during periods of heightened concerns about gas availability and prices. However, in seeking to address these immediate concerns rather than underlying constraints on supply, they have had limited impacts overall.

Gas policy should support efficient investment in and consumption of gas. It should also recognise the challenges posed for investment by changing gas usage patterns and reduced consumption in some market segments over time. A gas market operating on these terms would underpin energy reliability through the energy transition and provide access to more accessible, lower cost gas.

As gas is an input to electricity generation and industrial production, and an important energy source in its own right, reforms to create a more efficient gas market will also be critical to broader sectoral and economy-wide productivity.

A fundamental condition for achieving a better-functioning gas market is more supply and a greater diversity of suppliers. Gas policy settings can promote this by:

- Addressing underlying constraints on supply and competition by reducing unnecessary regulatory barriers and encouraging gas to be brought to market in a timely manner, for example by implementing stronger 'use it or lose it' conditions.
- Providing greater clarity on the gas transition path so that gas users, investors and market participants can make informed decisions. This includes more cohesion across

jurisdictions on objectives regarding gas use and pursuit of cost-effective demand-side policies, which would support lower-cost emissions abatement in and via the gas sector.

- Planning for gas such that new supply and supporting infrastructure can be brought on in the most efficient way through the energy transition, and risks relating to the increasing interrelationship between the gas and electricity markets are effectively managed.

# Promoting fit for purpose regulation and energy security while broader reforms are underway

Addressing the underlying causes of the challenges facing the gas market will reduce the need for additional interventions over the medium to longer term. The design and implementation of such policy measures to address these underlying causes will require careful consideration. It may also take some time for their benefits to arise.

In the interim, while there continue to be significant constraints on new supply, we acknowledge that the Government may wish to continue supporting the market to enable gas buyers to access gas on reasonable terms. Additionally, if the market continues to rely on LNG producers' gas to avert shortfalls, measures will be needed to ensure its availability.

If the HoA, ADGSM and Gas Code are retained in the near term, we recommend that they be modified to better meet policy objectives and mitigate their negative impacts.

## Refining market instruments in the short term

The HoA is intended to help prevent a domestic supply shortfall by providing the market access to secure and competitively priced gas. However, as the price and offer commitments made by the LNG producers are not facilitating domestic supply on terms acceptable to domestic buyers, the HoA is not meeting its objective.

Should the HoA be retained, the Government should consider alternative measures to facilitate supply of LNG producers' uncontracted gas on terms that can be taken up by the domestic market. However, it is important that the objective of better facilitating domestic supply be balanced against the need to avoid creating disincentives for LNG producers to develop gas beyond that required to satisfy their export contract commitments.

The ADGSM is a last-resort tool intended to ensure sufficient supply of gas to meet the needs of domestic gas consumers. It enables the Resources Minister to restrict LNG exports if a future domestic supply shortfall is identified which market-based solutions or other interventions fail to address.

The 2023 reforms to the ADGSM appear to have reduced LNG producers' incentives to make a net contribution to the domestic market and to produce uncontracted gas. The risk of shortfalls may therefore have increased since the 2023 changes. In making any further amendments, consideration should be given to how to address this risk and ensure LNG producers have incentives to produce gas beyond what is required to meet LNG contracts and to supply the domestic market.

The objective of the Gas Code is to facilitate a well-functioning domestic market with adequate supply at reasonable prices and on reasonable terms for suppliers and buyers. While the Gas Code's exemptions framework has led to some additional supply, it collectively represents a relatively small proportion of annual domestic demand and so has not materially influenced domestic prices. Further, gas buyers have told us that the Code's

conduct provisions have not led to a material improvement in their bargaining power and may be having some unintended consequences.

The Code's supply, pricing and conduct objectives could all be better achieved over the longer term by addressing the underlying constraints on supply and competition. In this submission we set out some considerations for reviewing the targeting and design of Code's conduct provisions, should they be retained.

The Gas Market Review consultation paper also contemplates measures to improve gas market transparency. The ACCC supports market transparency measures and streamlining of monitoring arrangements that improve market functioning and reduce regulatory and administrative costs. This submission sets out the ACCC's view on matters that governments should consider in developing such measures, and select observations in performing our administrative function under the Gas Code.

### Leveraging existing reserves and resources in the long term

Longer term gas planning should promote utilisation of known reserves and resources, which will likely be critical to serving the needs of the market and long-term energy security.

The Queensland LNG producers each individually control reserves and resources that well exceed their foundational LNG contract requirements, which are currently expected to expire in the 2030s. With southern states increasingly reliant on Queensland gas, the exporters' decisions on production and investment, export volumes and domestic contracting have significant impacts on domestic market outcomes.

Governments should consider the implications for domestic supply adequacy of any decisions by the LNG producers to extend their current LNG contracts or re-contract large export volumes. There is a present (and likely short-lived) opportunity to work with the LNG producers ahead of any commercial decisions on new export contracts to ensure that long-term domestic gas needs are met. Discussions with LNG producers should occur as early as possible to provide the certainty needed to commit to long-term investments.

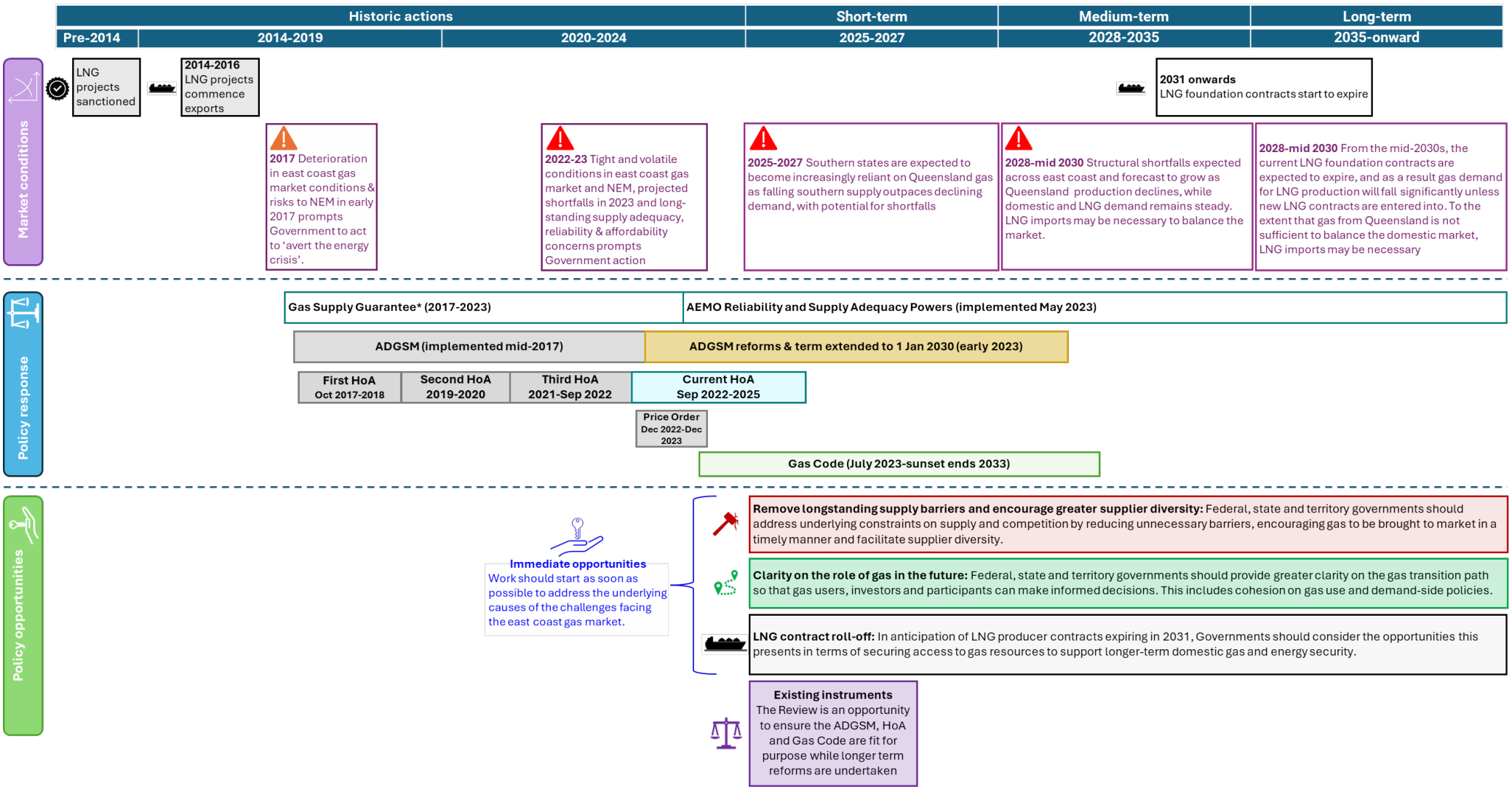
The ACCC considers that any form of formal reservation policy for the east coast gas market should seek to achieve domestic supply adequacy while minimising the potential for distortionary effects on the operation of the market.

## Structure of this submission

This submission is set out as follows:

- Section 1 provides an overview of the underlying problems in the east coast gas market that should be addressed as a first order priority.
- Section 2 provides an overview of our observations on the impacts of the Gas Code, ADGSM and HoA on the market to date.
- Section 3 sets out matters that government should consider in making changes to the existing instruments to ensure they are fit for purpose.
- Section 4 sets out our views on matters that governments should consider in developing measures to improve market transparency, and observations in performing our administrative function under the Gas Code.

## Figure 1: Past policy responses and future opportunities



# 1. Underlying problems need to be addressed as a priority

## 1.1. Challenges facing the east coast gas market

The east coast has sufficient reserves and resources to meet projected demand over at least the next decade. However, a combination of policy, structural[1] and behavioural[2] factors over the past 15 years have impeded their development. These include moratoria on gas developments and other restrictions on developing gas in some jurisdictions, regulatory approval processes, geological, infrastructure, commercial and regulatory barriers to the development of gas, and strategic decisions made by producers to delay developments.

As a result, gas is not being brought to market fast enough to meet demand, and we now expect ongoing shortfalls in southern states as local reserves reach the end of their economic life. Measures to address impediments to investment in domestic gas supply when and where it is needed, particularly in southern states, have not been pursued.

Gas policy measures over the past decade have largely focused on LNG producers and not addressed the underlying impediments to supply. The upstream market continues to be highly concentrated, with the LNG producers and their associates influencing over 90% of 2P reserves. In the face of market volatility and regulatory interventions to address these issues, some producers have elected not to develop and supply uncontracted gas to the domestic market. The constraints on more supply and greater supplier diversity are a major impediment to improvement in outcomes, including the ability of downstream markets and commercial and industrial gas users to compete.

Since the Queensland LNG projects became operational in the mid-2010s, the east coast has been exposed to highly volatile international LNG markets. When the LNG projects were approved, there was an expectation that they would largely be able to meet their obligations in foundation contracts (under which significant volumes of gas were committed to export in future decades) through the development of their own reserves, and continue to supply the domestic market.[3] However, it soon became clear that this was not the case for some projects, with some having to procure gas large volumes of gas from the domestic market to meet their obligations.

As the Department of Industry, Innovation and Science observed in 2017, this reliance on the domestic market has, in effect, resulted in the risk of under-performance of some projects being transferred to the domestic market.[4] The effects of this transfer of risk continue to be felt. Despite their extensive reserves and resources, LNG producers are now forecasting falling production over the terms of their export contracts and, for some, increasing purchases from other east coast producers. These purchases have resulted in a reduction in the gas available to the domestic market and, as a consequence, the domestic market has become increasingly reliant on exporters' uncontracted gas.

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1 The term 'structural reasons' is used here to refer to regulatory approval processes, as well as the geological, infrastructure, commercial and regulatory barriers faced by producers.

2 The term 'behavioural reasons' is used here to refer to the decisions made by producers about when to develop and bring gas to market, which are unrelated to the structural reasons.

3 Department of Industry, Innovation and Science, *Regulatory Impact Statement – ADGSM*, June 2017, p. 9.

4 ibid.

The decisions LNG producers now make about exports and development of their reserves have a significant impact on domestic supply adequacy, competition in the domestic market, and current and future market outcomes.

The east coast gas market is expected to face the following scenarios over the short, medium and long term under the status quo:

- **Short term:** Between now and 2027, southern states are expected to become increasingly reliant on Queensland gas as falling southern supply outpaces declining demand. The east coast overall remains balanced due to surplus Queensland gas.
- **Medium term:** From 2028 until the mid-2030s, structural shortfalls are expected across the east coast and are forecast to grow as Queensland production declines, while domestic and LNG demand remains steady. LNG imports may become necessary to balance the market, while Queensland LNG foundation contracts start to expire.
- **Long term:** From the 2030s, the current LNG foundation contracts are expected to expire, and as a result gas demand for LNG production will fall significantly unless new LNG contracts are entered into. To the extent that gas from Queensland is not sufficient to balance the domestic market, LNG imports may be necessary.

Finally, the gas sector is grappling with an uncertain transition path, with gas required to help facilitate the transition of the economy to net zero, but also subject to some uncertainty on the impacts of broader policies on demand and supply.

There is an opportunity to change the longer-term scenarios. This would require addressing the underlying causes of the problems facing the domestic market, which are fundamentally driven by the failure to develop gas in a timely manner to meet the needs of the east coast gas market and ineffective upstream competition. The impacts of Gas Code, ADGSM and HoA, being largely designed to address the symptoms of these problems, have been limited.

We consider that a first-order focus of reforms should be on providing greater clarity on the role of gas through the transition and addressing the underlying causes of the problems facing the east coast gas market. Removing unnecessary constraints on more supply and facilitating greater competition, alongside necessary demand reduction initiatives, will support a less costly transition to net zero.

## 1.2. Governments should remove supply barriers and encourage greater supplier diversity

Throughout the gas inquiry we have highlighted longstanding concerns about two critical and related fundamental problems facing the east coast gas market:

- the inadequacy of supply given long-term projections of domestic demand, and
- the lack of effective upstream competition and the impact this can have on buyer bargaining power and the ability of gas buyers to procure gas on competitive terms.

The key risks for new gas supply and infrastructure projects include regulatory approvals, policy uncertainty, access to finance and commercial conditions. Gas producers have highlighted the timeliness of regulatory approvals as one of the more significant barriers to investment.[5] Lengthy regulatory assessment processes can create delays to bringing new gas supply online, increase project costs and make it more difficult to attract new investment due to risk and uncertainty.

[5] ACCC, *Gas Inquiry 2017–2030 Interim report*, ACCC, June 2024, pp 43–44.

Gas supply projects are complex, large in scale, and capital-intensive. Significant risk is associated with all phases of a gas project lifecycle, from exploration to appraisal and production. As a result, it often requires many years to recover the initial costs of investment. Together with typically lengthy return-on-investment periods, this creates potential barriers to entry.

Barriers to entry and investment have historically been overcome by long-term foundational contracts with gas customers to underwrite project risks and the use of joint ventures to diversify risk and strengthen financial resources.[6] However, as discussed in recent gas inquiry reports, there has been a shift away from long-term contracting by many producers.

In the past decade, long-term foundational contracts and joint venture arrangements have been the largest source of investment and financing in gas supply, demonstrated by the relative success of LNG projects linked with export markets. Continued investment in gas exploration is nevertheless still needed to maintain production levels.

Efficient and timely investment in gas supply and infrastructure can be supported by reducing unnecessary regulatory barriers to new gas supply and infrastructure. This would support market-led responses to needs and greater competition. State, Territory and Commonwealth governments can encourage the development of new domestic supply by:

- Releasing new gas acreage and taking a case-by-case approach to assessing new development proposals rather than relying on blanket restrictions.
- Helping to reduce the infrastructure, regulatory and capital barriers faced by producers (particularly small producers), including by introducing a light-handed third-party access regime for upstream infrastructure such as gas processing plants and storage facilities.
- Proactively encouraging gas to be brought to market in a timely manner, for example by:
  - specifying shorter time frames for exploration, appraisal and production activities and actively monitoring and enforcing producers' compliance with work programs
  - implementing stronger 'use it or lose it' conditions and being prepared to use those conditions if producers are not developing tenements
  - incentivising the 'release and transfer' of tenements by producers that are no longer developing them to other producers that are prepared to do so.

Facilitating more timely development could also potentially include re-assessment of commerciality at certain points after the initial approval. In general, the objective of security of tenure should be maintained, and not reduce producer incentives to undertake activities that could lead to resources becoming commercial. However, more needs to be done to encourage gas to be developed in a timely manner.

Governments can also encourage greater supplier diversity by, for example, not granting acreage to producers that already control significant acreage unless they can be satisfied it will not affect the producer's development of existing or new acreage. Further, governments could follow Queensland's lead by considering diversity of suppliers and the efficiency with which gas can be brought to market, alongside the technical and financial capabilities of tenderers, when deciding who to release acreage to.

While the holdings of tenements can change over time through joint venture arrangements, mergers and/or acquisitions, the initial grant of exploration permits can have a significant influence on diversity in this part of the market and competition over the medium to longer term. We therefore encourage governments to be more proactive in this area.

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6 ACCC, *Gas Inquiry 2017–2030 Interim report,* ACCC, July 2022, p 102.

The introduction of the new merger regime may also mean that the ACCC will be notified of certain mergers or acquisitions that could result in further consolidation of interests, so we can examine their competitive effects (including the cumulative effects of serial acquisitions). Whether a particular merger or acquisition will need to be notified depends on whether it falls within the new legislative regime, including the notification thresholds.

## 1.3. Clarity on the role of gas will promote efficiency

In our December 2024 report we noted that one of the key challenges facing gas market participants and investors is policy uncertainty. We have heard that market participants are receiving mixed signals from governments about the pace of the energy transition and the long-term role of gas. Gas will be essential for achieving energy security and an orderly transition to a lower-emissions economy.

However, there is little clarity on the forward path for gas or the investment in demand- and/or supply-side measures that will be required to meet the needs of gas users through the transition. There is, for instance, a lack of clarity and coordination of the delivery of projects that may be required to support reliability and supply adequacy in the east coast gas market through the transition. Further, limited consideration appears to have been given to the needs of those gas users who cannot transition away from gas.

This is in direct contrast to electricity, where AEMO's *Integrated System Plan* plays a key role in identifying and coordinating investment across the National Electricity Market (NEM). This supports market-led investments in network infrastructure for the energy transition and links to several Government initiatives, such as the *Rewiring the Nation* policy.

Clearer planning guidance is also needed for gas. There are several initiatives being pursued through the Australian Energy Market Commission and the Energy and Climate Change Ministerial Council aimed at better informing investment decisions and identifying potential priority projects to boost supply over the medium term. Governments can further support the development of an efficient and well-functioning gas market by providing greater clarity on the gas transition path so that gas users, investors and market participants can make more informed and efficient decisions.

We consider that reforms to gas planning should seek to ensure that new supply and supporting infrastructure are brought on in the most efficient way through the energy transition, and risks relating to the increasing interrelationship between the gas and electricity markets are effectively managed.

## 1.4. Greater levels and diversity of supply can reduce the need for regulation in the longer term

The greater the level and diversity of supply, the more dynamic and competitive the east coast gas market will be, and the less it will need to rely on LNG producers' reserves.

If these outcomes can be achieved, it may obviate or lessen the need for regulation of supply and prices, using measures such as the Gas Code. To the extent that there is still a need to regulate or monitor conduct and selling practices, this could be better targeted, and the associated regulatory burden reduced. With less reliance on LNG producers' gas, there would also be less of a need for exporter-focused measures such as the HoA and ADGSM.

However, policy reforms to achieve these objectives are likely to take some time to implement and to have material and lasting effects on gas supply, competition, prices and conduct. Measures to support supply for domestic users may therefore continue to be needed in the short to medium term.

# 2. Impacts of the Gas Market Code, HoA and ADGSM

In 2022–23, the Australian Government took a number of actions to try and counter the effects of the 2022 energy crisis and address the effects of long-standing concerns about supply adequacy and ineffective upstream competition, including:

- entering into a new Heads of Agreement (HoA) with LNG producers, which commenced on 29 September 2022
- extending the term of the Australian Domestic Gas Security Mechanism (ADGSM) and making a number of other changes, which came into effect in March 2023
- introducing the Gas Market Code (Gas Code), which commenced on 11 July 2023 and became fully operational on 11 September 2023
- implementing the Emergency Price Order, which was in operation between 23 December 2022 and 22 December 2023.

Figure 2.1 provides an overview of the instruments that remain in operation.

**Figure 2.1: Regulatory instruments currently in operation**

East coast gas & LNG producers | East coast LNG producers

| | Gas Code (2023-onward) | Heads of Agreement (2017-2025) | ADGSM (2017-2030) |
|---|---|---|---|
| | Mandatory conduct and supply instrument | Voluntary supply instrument | Mandatory last resort supply instrument |
| Operation | Implemented on 11 July 2023 with a 2 month transitional period. Code fully in effect on 11 Sep 2023 | Originally implemented in Oct 2017. Then subject to a series of extensions & variations in 2018, 2020 & 2022. | Implemented in July 2017 and then subject to an extension in mid-2022 and reforms in March 2023 |
| Stated objective | *To facilitate a well-functioning domestic wholesale gas market with adequate gas supply at reasonable prices and reasonable terms for both suppliers and buyers.*[1] | *To prevent a gas supply shortfall through access to secure and competitively priced gas for the east coast domestic market.*[2] *Entered into to reduce the need for ADGSM to be triggered.* | *To ensure there is a sufficient supply of gas to meet the forecast needs of Australian gas consumers. Intended to be a measure of last resort if market-based solutions and other interventions fail.*[3] |
| Overview | Mandatory code of conduct that sets out how gas is to be offered and sold by regulated gas producers and affiliates (in specified cases). | Voluntary agreement between Australian Gvt & LNG producers that commits LNG producers to offer uncontracted gas first to the domestic market. | Regulatory instrument enabling the Resources Minister to restrict LNG exports if a shortfall is forecast to occur in the domestic market in the forthcoming quarter. |
| Key elements | The Code includes:<br>• **Transparency provisions** that are intended to reduce buyer search and transaction costs<br>• **Conduct provisions** that require parties to negotiate in good faith and establish minimum standards for EOIs, offers, negotiations and GSAs with a term > 12 mths<br>• **Reasonable price provisions**, which together with the **exemption framework**, are intended to incentivise producers to commit more gas to the domestic market. | The 2022 HoA was intended to strengthen the commitments by requiring LNG producers to:<br>• Offer uncontracted gas for reasonable supply periods, with reasonable notice on competitive market terms<br>• Adhere to the principle domestic buyers will not pay more for gas than international customers[4]<br>• Comply with the voluntary Code when determining offer T&Cs<br>• Publish information on offers, EOIs and sales on their website | Amended in March 2023 to:<br>• enable it to be triggered on a quarterly basis<br>• accord LNG producers' equal responsibility for preventing shortfalls<br>• protect LNG producers' long term foundation LNG contracts.<br>An important limitation of the ADGSM is it can only be triggered if a shortfall has been identified prior to the quarter immediately preceding the shortfall quarter. So it cannot be relied on if a shortfall unexpectedly arises in a quarter. |

Notes: 1. *Explanatory Statement Competition and Consumer (Gas Market Code) Regulations 2023.* 2. *2022 Heads of Agreement*. 3. *Customs (Prohibited Exports) Operation of the Australian Domestic Gas Security Mechanism) Guidelines 2023*. 4. The HoA also states Individual prices for gas and related services offered to domestic customers will have regard to the producer's cost of production and supply and factors relevant to user's individual circumstances.

While not shown in this figure, these instruments form part of a broader suite of measures that state, territory and federal governments have implemented over the past 10 years to try and increase domestic supply, reduce domestic demand, and manage the emerging threats to the reliability or adequacy of supply in the east coast gas market. This includes the extension of AEMO's powers to enable it to monitor and communicate reliability or supply adequacy threats, and to respond to any threats the market is unable to address by issuing directions or using its trading function.

## 2.1. The instruments are intended to improve the reliability, adequacy and affordability of gas

At the time the current set of regulatory instruments were implemented and, in the case of the ADGSM, revised, the Australian Government noted that they were intended to 'improve energy security, reliability and affordability'[7] and enable domestic users to access 'adequate supply at reasonable prices and on reasonable terms.'[8] They are primarily intended to do this by ensuring that sufficient gas is made available to the domestic market.

The ADGSM and HoA, for instance, are shorter-term supply instruments that only apply to LNG producers. The ADGSM is a last resort tool that enables the Commonwealth Resources Minister to restrict LNG exports if a domestic supply shortfall has been identified within a specified window and market-based solutions or other interventions fail to address that shortfall. The HoA, on the other hand, is a voluntary commitment by LNG producers to first offer uncontracted gas to the domestic market at a price that does not exceed what international customers would pay ('HoA price commitment').

In contrast, the Gas Code, which applies to all producers in the east coast, is intended to incentivise producers to supply the domestic market over the medium to longer term through the combined operation of the reasonable price provisions and the exemption framework. That is, by allowing:

- smaller producers to automatically obtain an exemption from the reasonable price provisions if they produced less than 100 PJ p.a. in the prior calendar year[9] and have not contracted to sell gas to LNG producers since the Gas Code's commencement[10]
- other producers to obtain a conditional Ministerial exemption from the reasonable price provisions on the basis of satisfactory voluntary enforceable supply commitments to the domestic market.

This is an important feature of the Gas Code: the reasonable price provisions, in conjunction with the exemption framework, work to incentivise producers to commit more gas to the domestic market, including through investment in future supply.[11] In principle, if the supply commitments are significant enough, they should place downward pressure on prices over the medium to longer term, thereby avoiding the need to regulate gas prices.

The Gas Code also includes conduct provisions, which are intended to reduce the imbalance in bargaining power faced by gas buyers and improve producer selling practices. The

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7 Hon. M King MP, Reforms ensure domestic gas supply, protect long-term contracts, 30 March 2023

8 Government, *Options to ensure the domestic wholesale gas market delivers for Australians – Consultation Paper*, December 2022, p 4.

9 The 100 PJ is calculated taking into account all the gas produced by the producer, across all related bodies corporate and joint ventures. If the supplier has a joint marketing or sale agreement with its joint venture partners in relation to the gas collectively produced by parties to the joint venture agreement (under which the supplier has a right to the collectively produced gas or part thereof), then all of the gas produced and marketed by the joint venture parties under the joint venture and joint marketing agreements

10 Note that some small producers are supplying LNG projects under contracts that were entered into prior to the Gas Code. They are therefore still entitled to a small domestic supplier exemption as long as they don't enter into any new contracts to supply gas to LNG producers.

11 DCCEEW, *Mandatory code of conduct for the east coast gas market*, Consultation paper, April 2023.

primary mechanisms for doing so are obligations on producers and buyers to negotiate gas supply agreements in good faith and to comply with minimum standards when offering and selling gas for supply terms of 12 months or more.

## 2.2. The instruments have not materially improved domestic market outcomes to date

Table 2.1 provides an overview of the impacts the Gas Code, HoA and ADGSM have had to date on gas supply and investment in the domestic market, the price and other terms on which producers have supplied gas to domestic buyers, the selling practices employed by producers, and competition between producers.

These observations are based on the material set out in our June 2025 interim report.[12] As noted in that report, we are in the process of collecting additional information from producers on the impact of these instruments, which we will report on in our September 2025 interim report.

Although our analysis is ongoing, it would appear that while the instruments may have resulted in some additional gas being offered or supplied into the domestic market, they have not directly resulted in a material improvement in the reliability, adequacy and/or affordability of gas in the east coast market over the past 2-3 years. Elements of the ADGSM, HoA and Gas Code also appear to be having some unintended consequences and giving rise to some inefficiencies, the costs of which will ultimately be borne by domestic gas users.

While changes could be made to improve the operation of these instruments (see section 3), it is important to recognise that there are limits to what the instruments can achieve on their own (that is, without addressing the fundamental problems set out in section 1). This is because the instruments are, in effect, seeking to treat the symptoms, rather than the underlying causes, of inadequate supply and ineffective upstream competition.

Addressing these underlying causes will take time, but doing so should reduce the need for these types of regulatory instruments over the medium to longer term. That is, by supporting the development of a more efficient domestic gas market that is adequately and reliably supplied and enables gas buyers to procure gas at on competitive terms. As discussed further in section 3, the existing regulatory instruments (potentially modified) could have a role in the short to medium term, however the principal focus of any further reform should be on addressing the underlying problems, as discussed in section 1.

[12] ACCC, *Gas Inquiry 2017-2030 Interim Report*, June 2025, Chapter 5.

**Table 2.1: Summary of preliminary observations on market responses to the regulatory instruments**

| Observations | Gas Code | HoA | ADGSM |
|---|---|---|---|
| **Gas supplied to domestic market** | Most producers are exempt from the reasonable price provisions, along with almost all of the gas expected for medium term domestic supply. Material increases in supply are not expected until 2026. Collectively, committed supply represents a small proportion of annual domestic demand.[13]<br>There is overlap between the LNG producers' commitments in their conditional Ministerial exemptions and the ADGSM, which raises important questions about the interaction between the instruments and the additionality of any gas supplied into the domestic market if the ADGSM is triggered. Further, we have found there was some overlap with commitments under the Queensland Australian Market Supply Condition in 2024-25, which means some of the committed gas would always have been sold domestically.[14] | The volume of uncontracted gas offered and supplied by LNG producers into the domestic market has been declining and is projected to continue to decline into the future (see figure 2.2). [15] LNG exports, on the other hand, have been increasing, with spot cargoes increasing from 75 PJ in 2021 to 122 PJ in 2024.[16]<br>Since the 2022 HoA was entered into, the take up of uncontracted gas by the domestic market has averaged around 30% of volumes offered. This likely reflects the impact of the HoA price commitment (see below).[17] | The reduction in uncontracted gas being produced and offered to the domestic market may reflect the impact of the 2023 ADGSM changes, which resulted in LNG producers being accorded equal responsibility for shortfalls, rather than accounting for net contributions to the domestic market.<br>This change also appears to have affected the incentive LNG producers have to invest in the development of new uncontracted gas.[18] |
| **Investment in new supply** | The finalisation of the Gas Code and conditional Ministerial exemption process led producers to recommence investments.[19] | No identified impacts. | |
| **Prices and other terms on which producers have supplied gas** | Domestic gas prices continue to be shaped by international and domestic supply-demand dynamics. The supply committed through conditional Ministerial exemptions (including the volumes committed at around $12/GJ) has to date represented a relatively small portion of domestic demand, and so has not been significant enough to influence domestic prices.[20] | LNG producers have complied with their HoA obligations to make uncontracted gas available to the domestic market at internationally competitive prices. However, the internationally linked prices offered have in most cases been materially higher than domestic prices (by around $1–$6/GJ over the past 12 months), which appears to be contributing to low domestic take up.[21] | No identified impact. |
| **Supply term** | Since the instruments were implemented or amended, we have observed a reduction in supply under long-term GSAs (with a term of 12 months or more). The following aspects of the instruments may be contributing to this reduction:[22] | | |

13 ACCC, *Gas Inquiry 2017-2030 Interim Report*, June 2025, pp. 91-95.
14 ibid, pp. 95-96.
15 ibid, Chapter 4.
16 ibid, p. 88.
17 ibid, p. 96.
18 ibid, pp. 98-99.
19 ibid, p. 90.
20 ibid, pp. 101-104.
21 ibid, pp. 96-98.
22 ibid, pp. 88-89.

| Observations | Gas Code | HoA | ADGSM |
|---|---|---|---|
| | The focus of the conduct provisions on GSAs with a term of 12 months or more has affected the willingness of some producers to enter into longer term GSAs. | The shorter-term focus of the HoA may affect the willingness of LNG producers to enter into longer-term GSAs. | Quarterly ADGSM assessments may have reduced LNG producers' willingness to enter longer term GSAs. |
| **Producer selling practices** | Gas buyers and producers continue to raise concerns about EOI and offer provisions, including that they are too rigid and are contributing to more protracted and less effective negotiations, with some noting there appears to be limited scope for bilateral negotiations.[23]<br>Gas buyers have also observed differences between how different producers interpret the conduct provisions, particularly in relation to the use of EOIs versus bilateral offers.[24] | There appear to have been some improvements in how uncontracted gas is offered, but some gas buyers continue to report challenges procuring this gas.[25] | No identified impact. |
| **Competition between producers** | There has been no material improvement in upstream competition since 2022, with LNG producers and their associates continuing to control over 90% of the reserves in the east coast and the supply of gas into the domestic market remaining highly concentrated. Since the instruments were implemented or amended, we have observed a reduction in competition to supply gas under long-term GSAs (with a term of 12 months or more), particularly in Queensland where more gas is sold on a short-term intra-year basis (see supply term row for more detail).[26] | | |
| **Gas buyers' views on the instruments** | Most buyers noted while prices have eased since the Gas Code was implemented, they remain above pre-Code levels:[27]<br>*"[R]easonable price provision has locked a min. price of $12/GJ in, majority of gas producers are e[x]empt from having to offer a reasonable price, export pricing too lucrative to accept domestic price …exemption promotes short term supply at high prices in exchange for the loose promise of gas in future years."*<br>Gas buyers also noted that they had not observed a material change in their bargaining power since the Gas Code was introduced.[28]<br>*"…many members see little difference on relative bargaining power from what was the case prior to the Mandatory Code ie very little."* | Most gas buyers noted the importance of LNG producers' first offering gas to the domestic market, but noted that the way in which gas is offered under the HoA, including the prices offered, was not suitable for most buyers. As one buyer observed:[29]<br>*"[it is] unsustainable for [a C&I user] to pay prices requested by LNG exporters. [It is] competitive for LNG producers based on export prices they can achieve when selling spot on JKM, not for domestic natural gas buyers."* | Most gas buyers also agreed on the importance of having a mechanism such as the ADGSM, but expressed mixed views about its impact.[30]<br>*"Whilst unlikely to ever be formally triggered, the mechanism provided / provides the threat of intervention where the domestic market falls short."*<br>*"The incentive of the [LNG] [p]roducers to supply domestic gas appears less to be about the ADGSM, and more of equal parts of: 1. maximising the pricing they can secure (domestic or international), 2. securing contracted supply (in a "seller's market"), 3. seeking to be a good corporate citizen…"* |

23 ibid, pp. 107-109.
24 ibid.
25 ibid, p. 98.
26 ibid, pp. 100-101.
27 ibid, p. 105.
28 ibid, pp. 109-110.
29 ibid, p. 98.
30 Ibid, p. 99.

### 2.2.1. ADGSM changes have increased flexibility, but may have unintentionally reduced incentives for domestic supply

In March 2023, the ADGSM was amended to:

- accord the LNG producers' equal responsibility for preventing shortfalls and provide greater protection to LNG producers' long-term foundation LNG agreements, and
- allow the ADGSM to be triggered on a quarterly basis if a shortfall is identified no later than 3 months prior to the relevant quarter.

While in the face of projected shortfalls there was clear rationale for amending the ADGSM to accord LNG producers equal responsibility for addressing such shortfalls, this change, together with the greater protection afforded to foundation LNG agreements, appears to have had the following unintended consequences:

- Materially reduced LNG producers' incentives to produce uncontracted gas and to make a net contribution to the domestic market. This can be seen in the reduction in the volume of gas that APLNG and QGC expect to supply into the domestic market in the future (see figure 2.2).[31] It can also be seen in the relatively modest commitments they both made as part of their conditional Ministerial exemptions and the ADGSM offsets that they have provided for in these exemptions.[32]
- Contributed to the decision by LNG producers to sell more of their gas on a shorter-term intra-year basis and not to commit to supplying gas in a period where there is a perceived risk of ADGSM being triggered (that is, because existing contributions are not accounted for in the allocation of a shortfall).

Together, these changed incentives could potentially increase the risk of a domestic supply shortfall. In contrast, the movement to quarterly ADGSM assessments has provided for greater flexibility to try and deal with any shortfalls that may emerge through the year. The increased transparency provided for by ADGSM reporting also appears to have positively influenced some LNG producers' behaviour in terms of taking steps to try and avoid quarterly shortfalls.

However, it is important to recognise that there are still temporal limits to when this last resort tool can be used. This is because the ADGSM can only be triggered if a shortfall has been identified prior to the quarter that immediately precedes the shortfall quarter, which in effect means a projected shortfall has to be identified with 6 months' notice. The quarterly application also poses challenges because it is difficult to forecast and address shortfalls in a 6-month window. Any shortfalls that arise within this period must instead be managed through AEMO's last resort reliability and supply adequacy powers, which may involve it issuing directions[33] or using its trading function.

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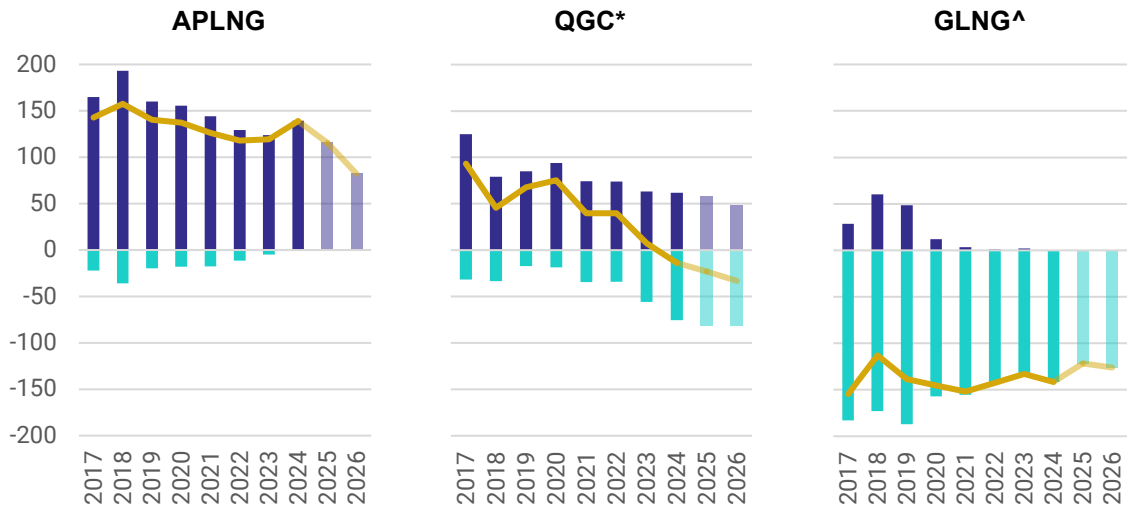
31 ACCC, *Gas Inquiry 2017-2030 Interim Report*, June 2025, pp. 67-69.

32 APLNG's recently varied conditional Ministerial exemption allows APLNG to reduce the volumes it must supply under its conditional Ministerial exemption in 2028 and 2029 by up to 5 PJ p.a. if the ADGSM is triggered. The conditional Ministerial exemption also provides an option to end early if the ADGSM is substantially amended or repealed. Walloons' conditional Ministerial exemption has also been linked to the ADGSM, with the exemption allowing Walloons to make its firm call contracts 'non-firm' during any quarter that has been determined as a domestic shortfall quarter under the ADGSM. ACCC, Gas Inquiry 2017-2030 Interim Report, June 2025, p. 96.

33 AEMO's directions power is limited in the case of the LNG projects, with the National Gas Rules prohibiting AEMO from giving a direction to an LNG producer if it relates to their long-term foundation LNG contracts.

**Figure 2.2: LNG producers' domestic sales and third-party purchases (PJ)**




Source: ACCC, Gas Inquiry 2017-2030 Interim Report, June 2025, pp. 67-69.

Note: 2017–2024 is based on actuals data provided to the ACCC while 2025 and 2026 are based on the latest forecasts available for those years. Positive values are domestic sales; negative values are domestic purchases.

* Gas purchased under the Strategic Gas Sales Agreement with Arrow Energy.

^ Gas purchased from the domestic market and other long-term purchase arrangements with third parties.

### 2.2.2. The HoA has led to some additional supply, but volumes are small and offers materially above domestic prices

The HoA was implemented in late 2017 to try and avoid the need for the ADGSM to be triggered. That is, through a voluntary commitment by the LNG producers to not offer uncontracted gas internationally unless an equivalent volume had first been offered to the domestic market on 'competitive market terms'. Subsequent HoAs have broadly provided for the same commitments, although changes have been made over time to provide more clarity about how gas is to be offered to the domestic market and greater transparency of the LNG producers' actions.

Since the 2022 HoA was entered into, we have found that the LNG producers have complied with their commitments to offer uncontracted gas to the domestic market. However, we have also found that the volume of gas being offered and supplied by the LNG producers to the domestic market has declined over time, while LNG export volumes have increased.

As noted in table 3.1, it is possible that the reduction in uncontracted gas occurred in response to the ADGSM changes. The relatively low take-up of the uncontracted gas that has been offered, on the other hand, appears to be a function of both the HoA price commitment (that domestic buyers pay no more than international customers) and the fact that LNG netback prices have exceeded domestic prices for much of the last 3 years.

This highlights a limitation with the HoA being able to meet its stated objective of 'preventing a gas supply shortfall through access to secure and competitively prices gas for the east coast domestic market'. That is, the commitment by LNG producers to offer gas to the domestic market at prices that do not exceed an internationally competitive price will not mean that gas is actually supplied into the domestic market, or a shortfall averted. In this regard, in contrast to the HoA, the commitments made by APLNG and QGC through their

conditional Ministerial exemptions provide for gas to be offered or *supplied* at a domestically competitive price.[34]

A further limitation with the HoA price commitment is that it may only result in additional domestic supply if domestic and LNG netback prices are broadly aligned. This is because:

- if domestic prices exceed the LNG netback price, then LNG producers may consider they cannot offer gas at the domestic price level, because the price commitment places a cap on what they can charge, and
- if LNG netback prices exceed domestic prices, then domestic buyers are unlikely to take the gas up.

### 2.2.3. The Code has led to some additional supply but not enough to affect prices, while conduct provisions may be having some unintended consequences

A key element of the Gas Code's design is the reasonable price provision, which applies to non-exempt producers, and is currently set at $12/GJ. In contrast to the HoA price commitment, which is based on internationally competitive prices, the $12/GJ reasonable price is intended to reflect a reasonable price for the supply of gas in the domestic market. There is therefore a disconnect between the prices in these two instruments.

Setting this aside, the reasonable price provision, together with the exemption framework, is intended to incentivise producers to commit to supplying the domestic market. While the Gas Code has had some success in this regard, in terms of incentivising smaller producers not to supply gas to LNG producers and eliciting commitments through conditional Ministerial exemptions, the additional supply committed to the domestic market has been too small to have a material impact on prices to date. As a consequence, domestic gas prices continue to be shaped by international and domestic supply-demand dynamics.

Gas buyers have also told us that the Gas Code's conduct provisions have not led to any material improvement in their bargaining power. Producers and gas buyers have also observed that the conduct provisions may be having a range of unintended consequences, including impeding effective negotiations.

According to producers and gas buyers, the EOI and offer processes are too rigid and the risk of penalties for non-compliance are also impacting negotiations. The focus of the conduct provisions on GSAs with a 12 month term or more has also reportedly affected some producers' willingness to enter longer term contracts given the compliance costs and perceived risks associated with these provisions.

### 2.2.4. Regulatory and policy uncertainty is also reportedly having an impact on the market

In addition to these impacts, gas buyers and producers have told us that the introduction of both the Emergency Price Order and the Gas Code, and the amendments to the ADGSM, resulted in a significant degree of regulatory and policy uncertainty.[35] The effects of this uncertainty are still reportedly being felt, with producers stating they are factoring the risk of

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[34] Australian Government, *Competition and Consumer (Gas Market Code) Regulations 2023 – Decision Notice - APLNG*, March 2025, p 3. Australian Government, *Competition and Consumer (Gas Market Code) Regulations 2023 – Decision Notice - Walloons*, June 2024, p 3.

[35] ACCC, *Gas Inquiry 2017-2030 Interim Report*, June 2025, p. 110.

further reforms (including as a result of the Gas Market Review) into their current and future domestic supply and investment decisions.

This reinforces the importance of providing the market greater clarity about regulatory and policy settings and how they are intended to operate over the medium to longer term (see section 3.2 for more detail).

The impacts outlined above also reinforce the importance of:

- carefully considering the impact that regulation may have on producers' incentives and the market more generally
- recognising the inherent difficulties of trying to regulate behaviour and incentivise actions that may not be in producers' commercial interests.

# 3. Promoting fit for purpose regulation & energy security

As discussed in sections 1-2, gas policy reforms aimed at achieving greater levels of and competition in supply are likely to take some time to implement and to have material effects.

In the interim, while there continue to be significant constraints on new supply, we acknowledge that the Government may wish to continue supporting the market to enable access to gas on reasonable terms. Additionally, if the market continues to rely on LNG producer gas to avert shortfalls, measures will be needed to allow access to this gas.

Should the Gas Code, ADGSM and HoA be retained over the short to medium term, we recommend they be amended to ensure they are more fit for purpose. Governments should also consider how existing reserves and resources can be utilised more efficiently to promote energy security. We set out considerations for such reforms below.

More generally, we consider that an important lesson from the 2022-23 regulatory changes, which included introduction of the Gas Code and changes to the HoA and ADGSM, is that policy uncertainty can significantly affect producer behaviour regarding investment and contracting, which can then exacerbate the challenges facing the market. This reinforces the importance of consultation and clarity in pursuing any future reforms.

## 3.1. Current instruments should be fit for purpose while broader reforms are underway

### 3.1.1. HoA commitments

The underlying objective of the HoA is to promote access to secure and competitively priced gas to reduce the risk of shortfall and triggering of the ADGSM. Our assessment of compliance across successive iterations of the HoA, and our recent work to understand the impact of the 2022 amendments, suggests that there are two key elements of the HoA that are not facilitating domestic supply on terms acceptable to buyers:

- The commitment to 'offer' rather than 'supply' gas to the domestic market, and
- The commitment to offer internationally competitive prices.

This is particularly the case under current international LNG market conditions, which have seen LNG netback prices materially above domestic price levels.

This highlights the tension between, on one hand, LNG producers having the ability to realise the opportunity cost associated with domestic supply (that is, the LNG netback price) and, on the other hand, facilitating domestic supply on acceptable terms.

The Gas Market Review consultation paper contemplates a range of potential reforms to current gas policy settings to promote domestic supply adequacy. One of these options is a framework requiring LNG exports to be approved subject to conditions, for example through an export permit or licencing regime. The consultation paper notes that such conditions could potentially include domestic supply and pricing considerations.[36] A similar option in

[36] Australian Government, *Gas Market Review Consultation Paper*, July 2025, p. 18.

this vein would be to make exports of uncontracted gas conditional on gas having been supplied, rather than offered, to the domestic market at *domestically* competitive prices.

However, such approaches could create (or exacerbate) disincentives for exporters to develop gas beyond what is required to satisfy foundational LNG contracts. If LNG producers are prevented from realising their next best alternative to supplying the domestic market — that is, exporting uncontracted gas as LNG — this may result in perverse incentives that ultimately exacerbate supply adequacy concerns. It may also impede economically efficient outcomes and the ability of prices to play their proper role in signalling investment.

We recommend that Government seek to minimise these risks in considering any options that would require LNG producers to supply the domestic market at prices below what they could receive from exports. In this context, Government should also consider the role of strengthened 'use it or lose it' policies in promoting timely development of reserves (see section 1.2 above).

### 3.1.2. ADGSM

The ACCC considers that there should continue to be a last resort export control mechanism available to ensure there is sufficient supply of gas to meet the forecast needs of Australian gas consumers if market-based solutions and other policy measures are unable to avert shortfalls.

However, as we observed in section 2.2, there is a question of whether the ADGSM, in its current form, is achieving this objective given LNG producers' reduced incentive to make a net contribution to the domestic market and the potential for this to increase the risk of shortfalls. In making any further amendments to the ADGSM, consideration should be given to how to address this risk and ensure LNG producers have incentives to produce gas beyond what is required to meet LNG contracts and to supply the domestic market.

As discussed in section 2.2, the shift to quarterly ADGSM assessments has provided for greater flexibility to address shortfalls that may emerge through the year. However, the quarterly application poses challenges because it is difficult to forecast and address shortfalls in a 6-month window.

Additionally, the current design of the ADGSM does not explicitly account for gas sold for the relevant quarter outside the assessment window (3-6 months before the relevant quarter). This may create an incentive for LNG producers to withhold gas sales until the assessment window, as it would not be counted towards their contribution to a shortfall. Further, problems identified in the relevant quarter outside of the assessment window are unable to be addressed using the ADGSM.

In making any changes to the ADGSM, consideration should be given to these temporal issues and the potential for any perverse incentives that may hinder the ability of the mechanism to achieve its objectives.

### 3.1.3. Gas Code

As discussed in section 2, our analysis to date indicates that the Gas Code has not, to date, met its objective of facilitating a well-functioning domestic market with adequate supply at reasonable prices and reasonable terms for suppliers and buyers..

Looking forward, it is possible that as some of the investments provided for under conditional Ministerial exemptions are brought to market, they will start to have more of an

impact on domestic supply and prices. However, as noted in section 1, more fundamental reforms will be required to support the development of new supply and diversity of suppliers.

In the interim, we consider that there would be merit in reviewing the targeting and design of the conduct provisions in light of participant behaviour to ensure that they are supporting effective negotiations between producers and gas buyers.

The Gas Code's EOI and offer processes could also potentially be improved by requiring producers to provide price guidance and feedback to gas buyers. Care would need to be taken with any price guidance, however, to ensure that it cannot used by producers as a price signalling tool that could help facilitate coordinated conduct.

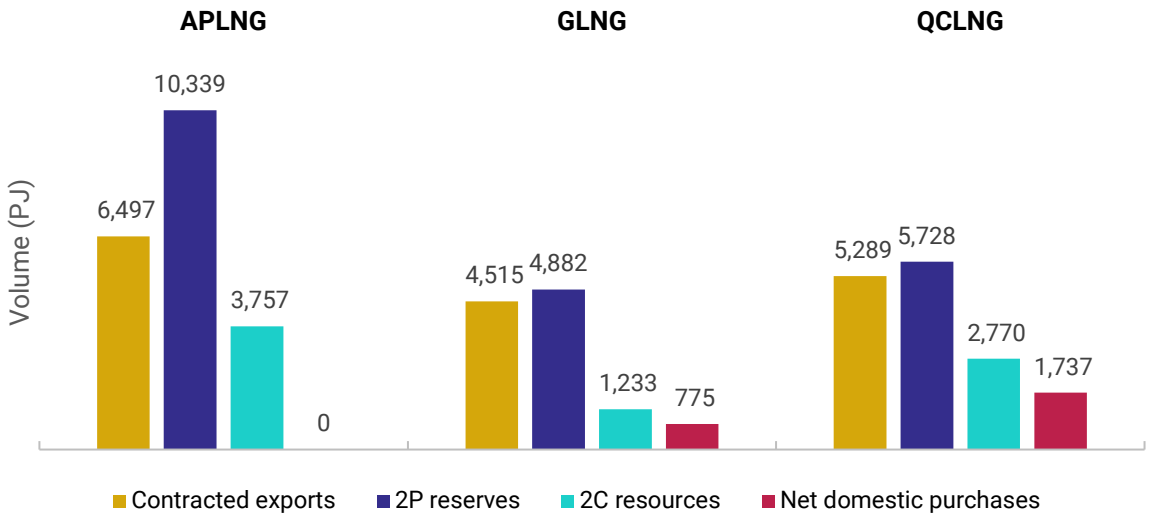
## 3.2. Existing reserves and resources should be utilised efficiently to promote energy security

As discussed above and in our recent gas inquiry reports, longer-term gas planning should promote utilisation of known existing east coast gas reserves and resources, which will likely play a valuable role in serving the needs of the market and long-term energy security.

The ACCC's December 2024 report examined the potential role of the LNG producers in supporting long-term supply security on the east coast. We found that, despite expected declines in gas production over the medium to longer term, each of the LNG producers individually control reserves and resources that well exceed their foundational LNG contract requirements (chart 3.1).

In our June 2025 report, we examined each LNG producer's forecasts and past activity in greater detail to understand their impacts on the domestic market and the supply outlook. We found that each producer differs in their reserve and resource holdings and their investment and contracting positions with both the domestic and export markets. They each therefore have different capacities to supply the domestic market both during and after the terms of their current export contracts.

**Chart 3.1: Queensland LNG producer remaining contracted exports to 2036 against their reserves, resources, and domestic purchases (PJ)**

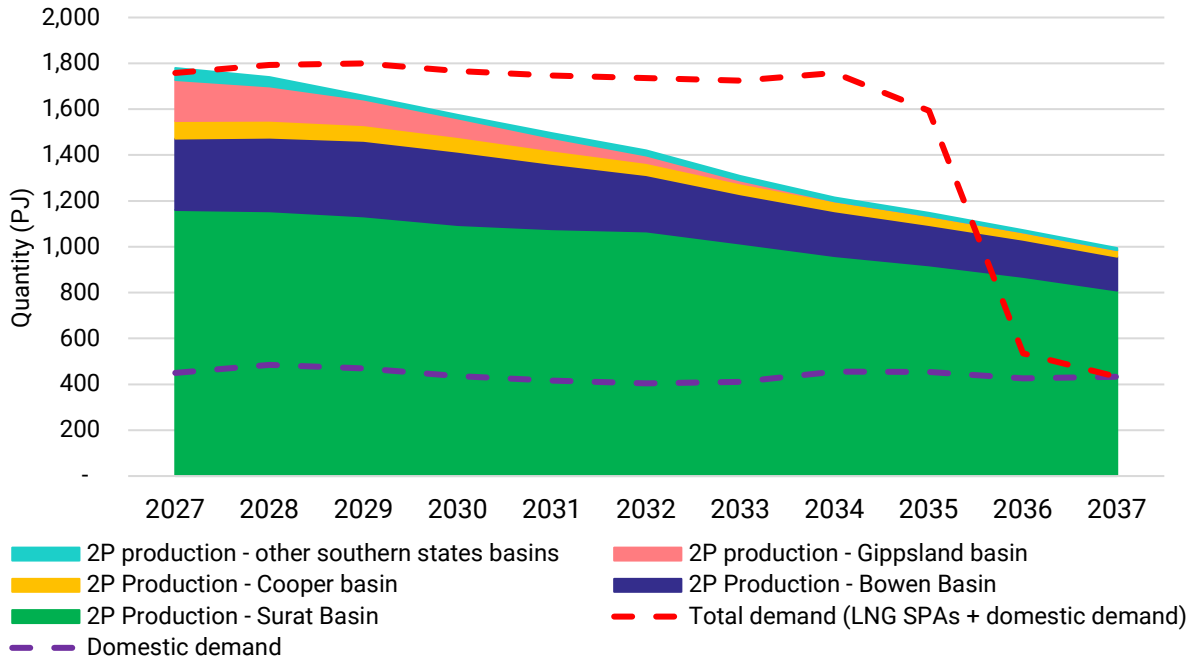



Source: ACCC, *Gas Inquiry 2017-2030 Interim Report*, June 2025 (AEMO Gas Bulletin Board; ACCC analysis of data obtained from gas producers).

### 3.2.1. Expiration of LNG export contracts create opportunities for domestic supply

The Queensland LNG producers' existing foundational export contracts are currently expected to end in the 2030s (chart 3.2). The earliest contract roll off is expected to be GLNG's Korea Gas Corporation contract in 2031, with the remaining contract end dates around the mid-2030s.[37]

**Chart 3.2: Forecast east coast supply-demand outlook, 2027 to 2037**




Source: ACCC, *Gas Inquiry 2017-2030 Interim Report*, June 2025 (AEMO March 2025 GSOO; ACCC analysis of data obtained from gas producers).

Note: Some LNG foundation contracts have options to extend the supply period based on mutual agreement between the parties and include provisions for temporary extensions for make-up cargoes if there is unfulfilled supply at the contracted end date, making exact end dates uncertain.

The LNG producers have not publicly indicated their intentions to continue exporting beyond the conclusion of their foundational export contracts. However, they may seek to sign new contracts with their existing customers, particularly given that some of these customers are also equity holders in the Queensland LNG projects.

Governments should consider the implications of the LNG producers extending their contracts or recontracting large export volumes for securing efficient supply to the east coast market. There is an opportunity now to work with the LNG producers ahead of commercial decisions on any new long-term export contracts to ensure that long-term domestic gas needs are met.

Discussions with LNG producers on options for long-term gas security should occur as early as possible to provide the certainty needed to commit to long-term investments. Ensuring that longer-term measures are put into place now should also help to mitigate the effects of uncertainty highlighted by producers (discussed in section 2.2) and promote timely investment and development of reserves.

[37] ACCC, *Gas Inquiry 2017-2030 Interim Report*, June 2025.

### 3.2.2. Any form of reservation policy must balance domestic supply adequacy with market efficiency

The ACCC considers that adoption of any form of formal reservation policy for the east coast gas market should seek to balance domestic supply adequacy and an efficiently operating domestic gas market. That is, it should minimise the potential for distortionary effects on market operation.

In the short term, gas reservation policies may reduce domestic prices as additional gas is supplied potentially beyond what otherwise may have occurred. However, artificially reduced prices may weaken economic incentives for further gas exploration and appraisal. Over time, reservation policies may reduce the likelihood of new sources of gas being developed, to the detriment of domestic gas users. Domestic production obligations involve governments determining the volume of domestic gas supply, rather than market forces. This approach risks oversupply to, and potentially over-consumption by, the domestic market.

Western Australia has sought to strike a balance between securing gas for domestic use and incentivising continued investment by reserving 15% of gas production for domestic supply over each LNG export project's life. Since the introduction of this policy in 2011, investment in new gas supply has continued at a similar pace to the east coast. A recent Parliamentary Inquiry into the Western Australian Domestic Gas Policy concluded that it had successfully delivered adequate and affordable supplies of gas to WA consumers.[38]

LNG exporters should be incentivised to develop their own reserves in the first instance to satisfy LNG contracts, rather than seek to retain existing reserves so they can be contracted for future exports following the expiry of their foundational export contracts.

Any new policies or changes to existing measures should also, wherever possible, preserve and promote incentives to commercialise new sources of supply to alleviate tightening in the domestic market. The current set of policy instruments are prospective in the sense that they do not provide for controls on, or otherwise seek to divert, exports of previously committed gas. Similarly, any future policy measures which seek to ensure long term domestic gas supply adequacy through reservation should be prospective to minimise the risk of creating investment disincentives.

Any reservation measures would also need to preserve sufficient incentives for small gas producers, and exploration and development businesses in the upstream sector, to continue to invest. We note that in response to a 2023 Parliamentary Inquiry into WA Domestic Gas Policy, the Western Australian Government has supported a recommendation to allow small gas producers to access LNG export markets until 2030 if the domestic gas market is sufficiently supplied. This measure is intended to facilitate new project development and additional gas supply.

The development and commercialisation of petroleum reserves requires the leveraging of significant investment capital, and the Australian gas industry is dependent on foreign investors to develop domestic resources. Entering discussions with LNG producers as early as possible on prospective options to secure sufficient gas for the domestic market should help to promote investment certainty and mitigate any perceptions of sovereign risk.

[38] Economics and Industry Standing Committee, *Report 8 Domestic Gas Security in a Changing World Inquiry into the WA Domestic Gas Policy: Final Report*, Parliament of Western Australia, August 2024, p 15.

# 4. Market transparency & lessons from Code administration

The ACCC has two distinct roles in relation to gas markets:

- **Gas Inquiry:** Since 2017, at the direction of the Treasurer, the ACCC has conducted an inquiry into gas supply arrangements in Australia. The driving force behind the inquiry has been to make transparent key aspects of gas market pricing and supply not otherwise made transparent by other market bodies, and to examine issues affecting the functioning of the market.

  Through our inquiry reporting, the ACCC supports the operation of the ADGSM and the HoA by publishing supply-demand projections that inform decision making by the Minister for Resources under the ADGSM, and monitoring and reporting on LNG exporter compliance with their HoA commitments.
- **Gas Code administration and compliance monitoring:** The ACCC is also responsible for monitoring and enforcing compliance with the Gas Code, including in relation to conditional Ministerial exemptions. We also support the efficient operation of the Gas Code through various administrative functions including information gathering and record keeping determinations.

To allow the ACCC to carry out both functions, the ACCC collects information using our information gathering powers under both the inquiry, Part IVBB of the Competition and Consumer Act, and the Gas Market Code.

The ACCC supports the efficient administration of market instruments and market transparency measures that would improve the operation of the market. This section sets out the ACCC's view on matters that governments should consider in developing measures to improve market transparency and our observations in performing our administrative function under the Gas Code.

## 4.1. Measures to improve market transparency should enhance efficiency

### 4.1.1. Central repository of information could minimise reporting burden while retaining critical access for agencies

Changes in transparency-related reporting across agencies and expansion of the AER and AEMO's remits in recent years have led to concerns from industry about the range and volume of information they are required to report to various agencies.

The ACCC has reduced monitoring and reporting on certain topics in our inquiry reports in response to the expansion of other agencies' monitoring roles. However, current legal frameworks limit the ACCC's and other bodies' ability to share information that is collected to minimise the reporting burden on industry. The ACCC continues to work with the AER and AEMO to avoid overlap in reporting and align information collection processes, including the scope and timing of our notices, to reduce burden to the extent possible.

We support the development of a central repository for all gas market information from producers, as proposed in the consultation paper, to minimise the burden on industry of the

ACCC and the energy market bodies undertaking their respective functions. Careful design of the central repository, and arrangements for providing access to that information, would be needed to ensure that such a measure delivers the intended reduction in burden. In particular, the reform would need to provide for the ACCC, and other bodies, to continue to be able to undertake their respective functions by having access to information in the form and manner they require (for example, in the case of the ACCC, to undertake its functions under the Gas Code and the Gas Inquiry), which would avoid the need to additionally provide for this information.

To this end, we note the current legal frameworks, which allow for discretionary sharing of information between the energy market bodies and ACCC, has facilitated only limited information sharing to date. A regime that requires, rather than allows, information to be shared may be necessary to ensure a central repository works efficiently.

The ACCC supports ensuring that the respective roles, scope and information requirements of relevant parties reporting on the gas market are clear. We also support retaining a broad direction for the gas inquiry to allow us to adjust our focus as necessary.

### 4.1.2. Real-time pricing information may affect competition

Greater transparency of prices can promote competition and be efficiency enhancing, but it can also have the opposite effect if the disclosure facilitates coordinated conduct – the impacts of which are ultimately borne by consumers.

As we have previously advised Energy Ministers, disclosure of information about the behaviour of individual suppliers (including prices) can increase the likelihood of coordinated conduct.[39,40] This is particularly the case in highly concentrated markets, such as the east coast gas market, where a small number of producers are responsible for the vast majority of gas contracting.

In our prior advice to Energy Ministers, we noted that to mitigate the risk of coordinated conduct between gas suppliers, wholesale gas prices should be reported on an anonymised and aggregated basis, with aggregation to involve at least three gas suppliers. This is the method we ordinarily apply in our gas inquiry reporting and the method adopted for short-term transaction reporting on the Gas Bulletin Board.

If price information were published in 'real time', as proposed in the consultation paper, there may not be sufficient transactions to aggregate, particularly for GSAs with a term greater than 1 year. This has been evident in our recent move to quarterly price reporting, with insufficient numbers of longer-term GSAs being available in some quarters to achieve the level of aggregation required to mitigate the risk of coordinated conduct. There is a material risk therefore that if primacy is given to 'real time' reporting, over aggregation, it could have adverse effects on competition and gas users who would ultimately bear the cost.

In this regard, we note that there are a range of other price markers that gas buyers can have recourse to, including our LNG netback price, Brent crude oil price expectations, ASX futures prices, broker forward curves, and Gas Bulletin Board short term price reporting.

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39 ACCC and Gas Market Reform Group, *Measures to improve the transparency of the gas market,* Australian Government, December 2018.

40 ACCC, *Measures to improve the transparency of wholesale prices in the gas market*, Australian Government, 2019.

## 4.2. Some lessons from Code administration

The ACCC is responsible for monitoring and enforcing compliance with the Gas Code as well various administrative functions. Issues that we have encountered in performing our role, and those raised by stakeholders, include the complexity of reporting arrangements and need for greater clarity on the scope of Code coverage.

We comment on these issues further below, as well as information collection and disclosure arrangements. Should relevant provisions of the Gas Code remain, we will seek to work with the Government to clarify and/or improve their workability.

### 4.2.1. Complexity of reporting and scope of Code coverage

Part 6 of the Code includes obligations on suppliers to keep and report certain information to the ACCC as well as publish information for market transparency purposes.

Examples of concerns raised relate to provisions covering small suppliers and requirements for reporting of available gas (sections 34 and 35). These include a need for greater clarity on the scope of agreements that are to be reported by small suppliers, for example, whether obligations apply to both new and varied agreements. Small suppliers who, over time, no longer meet the deemed small supplier exemption criteria are also still required to report.

On available gas reporting, interpretations of 'available gas' have varied between suppliers. Defining the term 'available gas' would improve the utility of reported information.

Large numbers of entities have been captured by the available gas reporting obligations despite being non-market facing or having no intent to market gas for sale. A large number of entities are still required to report their available gas despite having either nil or very small quantities. The purpose of this reporting and the associated regulatory burden it imposes may benefit from review.

We also note that the transparency objectives of the Code may be better served by allowing reporting of changes in circumstances and historic data that would enable observation of trend changes in available gas over time.

Other definition-related issues include that: gas swaps definitions do not currently provide for volume neutrality across the year (section 4), and the definitions of 'regulated gas producer', 'covered supplier' and affiliate definitions currently capture a range of suppliers that may not be intended by government, for example, as illustrated by the conditional Ministerial exemption for Shell Energy Australia entities (sections 5 and 6).

### 4.2.2. Information collection and disclosure

Part 6 of the Gas Code allows the ACCC to share information given to it under Part 6 to certain departments. However, the provisions in some instances do not facilitate efficient information sharing. For example, section 33 of the Code requires covered suppliers to make and keep records of certain information such as details of gas EOIs, offers and agreements, but does not create any obligation for suppliers to provide the information to the ACCC. The ACCC presently uses alternative provisions to collect this information.

The Government could consider amending the Code to include a reporting requirement for this information, such that information provided could be shared under Part 6 (specifically, section 42) of the Code.

# Appendix

| Theme | Consultation question | Response |
|---|---|---|
| **Supply, security and trade** | 1. How effective are the existing instruments in ensuring sufficient supply of natural gas for Australia's domestic gas market, including impacts on the exploration and development of new gas resources? Please provide detail. | Section 2.2. |
| | 2. Have the reforms affected the competitiveness of Australia's LNG export industry, investment reputation or international reputation for quality and reliability? If yes, please provide detail. | n.a. |
| | 3. How might the instruments be improved to better achieve the Review's objective? | Section 3.1. |
| | 4. Are there alternative policies that would secure gas for Australian consumers while maintaining a strong LNG export industry? | Section 3.2. |
| **Contracting and bargaining power imbalances** | 1. Has the Expression of Interest (EOI) and offer process in the Code and HoA respectively been effective?<br>a. To what extent have these instruments helped address bargaining power imbalances?<br>b. Have these instruments produced any unintended consequences? | Section 2.2. Table 2.1. |
| | 2. Have existing instruments impacted your ability, either positively and/or negatively, to secure long-term contracts? | n.a. |
| | 3. How might the HoA and Code EOIs and offer processes be improved? Potential improvements could include price guidance and feedback being required from producers or exempting buyer-led EOIs from the Code. How might this impact EOI processes? Please provide detail. | Section 3.1. |
| | 4. Do you consider buyer negotiating positions would improve with a standard Gas Supply Agreement (GSA) template that provides guidance or optionality on non-price terms as a reference for negotiations? Please provide detail.<br>a. What non-price terms would benefit from standardising?<br>b. What are the benefits of standardising terms and conditions?<br>c. What are the barriers in adopting a standardised GSA? | n.a. |
| **Transparency** | 1. What are your key sources of supply and pricing information (both from market bodies or elsewhere)? | n.a. |
| | 2. What impact would more transparent or more timely information have on the supply of gas to the domestic market? How does this impact LNG operations? | Section 4.1.2. |
| | 3. How transparent are shortfall determination processes under the instruments, and in particular under the ADGSM? | n.a. |
| | 4. Are you aware of uncontracted gas information and EOIs hosted on gas producer websites? If yes, please provide detail. | n.a. |
| | 5. What changes are required to ensure you have sufficient access to market information (e.g., more real-time price information, available supply, contract terms etc) to make informed procurement decisions? | n.a. |
| | 6. What are the trade-offs that come with closer to real time price transparency to the market? | Section 4.1.2. |

| Theme | Consultation question | Response |
|---|---|---|
| | 7. Would consumers and/or producers support an information sharing arrangement whereby GSAs are reported in close-to-real-time to the AER (rather than waiting for an information order)? Please provide detail. | n.a. |
| **Pricing** | 1. Has the Code's reasonable price mechanism been effective at reducing gas prices? Please provide your observations.<br>a. Does the current reasonable price (set at $12/GJ excluding transport costs) reflect actual supply and demand conditions? Please provide detail.<br>b. Has price volatility reduced or increased under the instruments? Please provide detail.<br>c. Does the reasonable price support competition in Australia's gas markets? Please provide detail. | Section 2.2. |
| | 2. Is the mechanism in the Code for setting a reasonable price appropriate or should an alternative mechanism set the reasonable price? | n.a. |
| | 3. What changes to the existing instruments are needed to ensure gas is affordable and reliable for your operations? | n.a. |
| | 4. How might future market conditions or potential new supply sources (e.g. LNG regasification terminals) impact wholesale gas prices in both the southern and northern markets? | n.a. |
| **Efficient markets** | 1. What benefits do bilateral gas trades offer compared to use of AEMO's facilitated markets. What barriers exist to greater use of AEMO's facilitated markets? | Not covered in body of submission. See below. |
| | 2. Does bilateral gas contracting limit competition, transparency and a more efficient price formation process? | Not covered in body of submission. See below. |
| | The majority of the gas volumes supplied domestically is transacted on a bilateral basis. These bilateral contracts are a product of negotiated outcomes between buyers and sellers, and reflect mutually agreed terms which are tailored to their requirements. While bilateral contracting is an opaque process, various actions were taken in recent years to improve transparency, including quarterly ACCC reporting on supply agreements.<br>In contrast, the AEMO-operated facilitated markets have historically been used to 'balance' gas requirements on a daily or a short term basis.[41] While procuring from the facilitated markets can be a useful diversification strategy for some gas buyers, the potential for AEMO markets to experience more volatility (compared to bilateral contracts) means those that are not effectively able to manage these risks are left exposed. This is especially the case due to the limited liquidity in the AEMO-operated facilitated markets which, as it currently stands, play a relatively small role in facilitating overall domestic supply. The risks associated with these markets include:<br>▪ **physical** risks i.e. the risk there will be insufficient gas available in the markets;<br>▪ **financial** risks i.e. the risk prices in these markets could get as high as the market price cap[42] and/or that the administered price cap may be triggered.[43,44] | |

41 AEMC, *Gas Markets* [website], Australian Government, accessed 4 August 2025.

42 The market price cap is $400/GJ in the STTM and $800/GJ in the DWGM.

43 The administered price cap is $40/GJ in both the STTM and DWGM. The last time the administered price caps were triggered was in mid-2022 and they remained in place for some time.

44 If, for example, the administered price caps were triggered for a period of time, then buyers relying on the markets would either have to be in a position to pay $40/GJ for that gas and meet AEMO's prudential requirements during this period, or alternatively be able to reduce their demand for gas during that period.

| Theme | Consultation question | Response |
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| | These risks are particularly heightened and can significantly impact gas buyers that are not in a position to reduce their gas consumption with short notice and/or do not have the ability to mitigate these risks. The Weston RoLR event in mid-2022 serves to illustrate the heightened risks those operating in the AEMO-operated facilitated markets are exposed to.[45] | |
| | 3. Views on the performance and efficiency of the wholesale gas market, including supporting evidence, are welcomed. | n.a. |
| **Governance of Gas Market Regulations** | 1. Are the current roles and responsibilities of the AEMC, AER, AEMO and ACCC in gas market regulation and reporting clear and appropriate? Please provide detail. If not, are there gaps or overlaps that could be addressed? | Section 4.1. |
| | 2. What has been your experience in relation to the reports and forecasts produced by these regulatory bodies? | n.a. |
| **Potential options for reform** | 1. Do the issues you have raised in your submission warrant significant change to the current system? | n.a. |
| | 2. If yes, do any of options presented above offer better alternatives to the existing system and why? | n.a. |
| | 3. If there are options not presented here that should be considered, please outline and explain how they would improve the current system. | n.a. |

[45] ACCC, *Gas Inquiry 2017–2030 Interim report,* ACCC, December 2023, p 103-4.