

# QCLNG – Submission in support of application for authorisation

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## 1 This submission

QGC Pty Limited (“**QGC**”) provides this submission in support of the applications for authorisation of the “Co-ordinated scheduling of maintenance for Queensland LNG Projects” submitted by Australia Pacific LNG Pty Limited (“**APLNG**”) and the participants who comprise each of the Queensland Curtis LNG Project (“**QCLNG**”) and the Gladstone LNG Project (“**GLNG**”) on 15 October 2015 (A91516 and A91517).

In particular, this submission provides further information to the ACCC in relation to various issues raised by ERM Power Limited (“**ERM**”), Stanwell Corporation Limited (“**Stanwell**”) and the Energy Supply Association of Australia (“**ESAA**”) in their submissions to the ACCC dated 16 November 2015, 20 November 2015 and 23 November 2015 respectively.

This submission supplements the further submission provided by each of the Applicants (including QGC as one of the QCLNG Project participants) dated 30 November 2015.

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## 2 The Proposed Conduct will result in significant public benefits

QGC notes that both ERM and Stanwell support the application for authorisation and consider that the proposed coordinated scheduling of maintenance is “reasonable”. The ESAA submission also acknowledges that “clear operational efficiencies” can be derived from the proposed coordination.

These statements reflect the clear commercial logic for, and public benefits that will arise as a result of, the Proposed Conduct.

In addition, the submissions by ERM, Stanwell and ESAA highlight certain issues that QGC considers will arise, or will be exacerbated, if the Applicants are not able to engage in the Proposed Conduct.

If the Applicants do not coordinate on the timing of, and there is an overlap in, maintenance shutdowns, this could potentially result in very large amounts of excess gas becoming available at a time that coincides with the removal of potential buyers for that gas. It could also subsequently result in significant shortfalls if the LNG facilities need to ramp-up again at the same time.

It is this inefficiency in production and wastage of resources (and other operational challenges in managing, and community impacts likely to arise from, potentially overlapping maintenance campaigns) that the Proposed Conduct seeks to avoid.

The Proposed Conduct will therefore result in public benefits that would not arise, or would arise to a much lesser extent, if the Applicants are not able to engage in the Proposed Conduct.

The submissions by ERM, Stanwell and ESAA also identify certain concerns in relation to the potential impact of maintenance shutdowns on the availability of, and prices for, gas. However, QGC considers that many of these issues are not attributable to the Proposed Conduct. In particular, the potential availability of excess gas is likely to arise from the fact that QCLNG, APLNG and GLNG will each need to undertake maintenance shutdowns (i.e. regardless of whether or not the Applicants engage in the Proposed Conduct).

That these submissions identify issues that are not attributable to the Proposed Conduct is further illustrated by the reference in Stanwell's submission to the impact of the unexpected outage experienced by QCLNG on 14 August 2015 on prices at the Wallumbilla Hub and the Brisbane Short-Term Trading Market.

Short-term LNG facility outages will occur from time to time, either unscheduled or at short notice. Given their unplanned nature, the Proposed Conduct will not involve any coordination prior to an unexpected outage occurring. Accordingly, the consequences of the unexpected outage on 14 August 2015 as highlighted in the submission will not (and cannot) have any connection with the Proposed Conduct.

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### **3 The Proposed Conduct will not involve the Applicants sharing information about the supply of gas**

#### **3.1 The Proposed Conduct involves the exchange of limited information**

In their submissions, ERM, Stanwell and ESAA raise a potential concern that the Proposed Conduct will involve the Applicants sharing market sensitive information that, unless it is published, will result in the Applicants obtaining an unfair competitive advantage in certain financial and physical markets in which they participate.

However, in assessing the application for authorisation, it is important that the ACCC considers:

- what information will, and will not, be shared as part of the Proposed Conduct;
- what information will, in any event and without the Proposed Conduct, be either publicly available or readily observable (even if there is some level of existing informational asymmetry between different market participants); and
- whether or not the limited information that is attributable to the Proposed Conduct (as distinct from other market factors) could realistically result in any competitive advantage and, if so, in which markets. In this regard, the references in the submissions to “financial and physical markets” suggest some level of potential confusion about the operation of the gas and LNG supply chains in which the Applicants participate, and an incorrect comparison with electricity markets which have very different characteristics.

As set out in the application for authorisation, the Proposed Conduct involves the Applicants exchanging information and coordinating **only** in relation to the timing of scheduled maintenance campaigns – that is, the “sequencing and timing” of scheduled maintenance, the “scope and expected duration” of shutdowns and outages, and identifying optimal windows for maintenance based on climate, safety considerations and local resource constraints.

The Proposed Conduct **will not** involve the Applicants exchanging information or any coordination in relation to:

- the production of gas (e.g. production volumes, production scheduling or capacity or maintenance of upstream gas infrastructure);
- arrangements or contracts for the supply, storage, consumption, diversion or flaring of gas;
- any of the Applicants' gas positions (e.g. whether or when they may seek to acquire or sell gas, or have already contracted to acquire or supply gas); or
- the identity of any customers to whom they may supply gas, and the timing, volumes or prices for those supply commitments.

The Proposed Conduct will therefore not give the Applicants any accurate insight into each other's gas positions, or plans or timing for entering into arrangements to supply gas.

### 3.2 No insight into supply positions

In contrast to electricity markets which involve real-time price discovery mechanisms and a range of financial instruments (including derivative, forward, options and hedging contracts), the wholesale supply of gas in Queensland typically takes place under commercially negotiated bilateral contracts.

Accordingly, **both with and without** the Proposed Conduct, the Applicants may consider a range of alternatives for dealing with the excess gas that is likely to arise from a LNG plant maintenance outage. These alternatives include:

- managing upstream gas production volumes. QGC understands that the wells from which QCLNG, APLNG and GLNG acquire gas have differing abilities to "turn up" or "turn down" the volumes of gas they produce. Where possible, the gas producers may also seek to manage their production by scheduling maintenance shutdowns of upstream facilities to coincide with LNG facility maintenance;
- adopting different storage or gas diversion solutions;
- supplying gas to domestic customers. Each Applicant has different arrangements and commercial relationships with domestic customers. For example, QGC has a range of Master Spot Gas Supply Agreements with different customers which set out the terms and conditions on which QGC may supply gas on a spot basis to those customers. The Proposed Conduct will not give the other Applicants any insight into these independent arrangements, the volumes of gas to be acquired under these arrangements or the timing and duration of any gas supply commitments;
- supplying gas to the other LNG facilities on Curtis Island. QGC has entered into Master Gas Sales Agreements with each of APLNG and GLNG to enable them to manage imbalances and enter into gas swap and gas supply arrangements. Accordingly, it is very likely that, both with and without the Proposed Conduct, QGC may seek to supply excess gas to APLNG and GLNG<sup>1</sup>; and
- flaring gas at the upstream production facilities.

<sup>1</sup> QGC notes that, at the time of the unexpected shutdown on 14 August 2015, there were only the two QCLNG trains in operation on Curtis Island. Accordingly, the alternative of supplying QCLNG's excess gas to the other LNG facilities was not available at that time.

With each of these options potentially available to each LNG Facility (and with each LNG Facility adopting different strategies at different times), the Proposed Conduct will not provide the Applicants with any particular insight into each other's arrangements for supplying gas (e.g. net positions, supply volumes, supply price or timing for entering into supply commitments).

QGC therefore considers that the submissions by ERM, Stanwell and ESAA are likely to overstate the extent of any informational advantage that will arise from the Proposed Conduct.

### 3.3 Many of the issues raised are not attributable to the Proposed Conduct

QGC also considers that the submissions by ERM, Stanwell and ESAA wrongly conclude that certain information that will be available to the Applicants will arise as a result of the Proposed Conduct.

In the absence of the Proposed Conduct, it is highly likely that the Applicants will become aware of proposed maintenance shutdowns (and the potential availability of large volumes of gas) from:

- their discussions with contractors and other service providers (who are likely to discuss scheduling issues and indicate whether or not they can provide services to an Applicant based on their commitments to the other Applicants);
- their observations of preparatory activities on Curtis Island and in Gladstone;
- their observations about when previous maintenance took place, and therefore when the next scheduled maintenance activities are likely to be required (given that much of the equipment used by the Applicants is sourced from the same suppliers);
- bilateral approaches from other Applicants offering to supply gas. As set out above, given the large volumes of excess gas associated with any shutdown, it is highly likely that any Applicant will seek to approach one or more of the other Applicants as a potential buyer; and

Much of this information will also be available to, or observable by, other participants in the gas industry. Information is already required to be published on the Australian Energy Market Operator's ("AEMO") National Gas Bulletin Board (e.g. any reduction in pipeline nominations, or upstream production information). Since 26 October 2015, LNG pipeline operators have been required to report a rolling 7 day forecast of flow nominations for each of the export pipelines. Actual plant flows are also published, together with details of upstream production data. These existing information provisions appropriately inform the market of changes in short-term changes in LNG supply and demand of the nature highlighted by Stanwell.

However, even if there is some level of informational advantage that accrues to the Applicants (given their co-location on Curtis Island, knowledge of LNG facility maintenance requirements, and separate discussions with contractors and service providers), this informational advantage **will not** arise as a result of, or be materially increased by, the Proposed Conduct.

To the extent that there are any informational asymmetries that arise separately from the Proposed Conduct, they are the subject of the current detailed review by the Australian Energy Market Commission ("AEMC").

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## 4 The AEMC review

### 4.1 Background to the review

As the ACCC is aware, the AEMC is undertaking a review of the design, function and roles of facilitated gas markets and gas transportation arrangements on the east coast of Australia.

In particular, the review is examining:

- (a) the type and number of facilitated markets on the east coast, including options to enhance transparency and price discovery and reduce barriers to entry;
- (b) opportunities to improve effective risk management, including through liquid and competitive wholesale spot and forward markets which provide tools to price and hedge risk; and
- (c) changes to strengthen signals and incentives for efficient access to, use of and investment in pipeline capacity.

In its *Stage 1 Final Report – East Coast Wholesale Gas Market and Pipeline Frameworks Review* dated 23 July 2015 (“**Stage 1 Final Report**”), the AEMC committed to address various issues relating to information gaps in the national gas industry.

From this, a key work stream of stage 2 of the AEMC review is focused on improving the accuracy and transparency of market information in the wholesale gas market, by focusing on improved publication of market information on the National Gas Bulletin Board operated by the AEMO.

This work stream involves the participation of a number of industry participants (“**Working Group**”).<sup>2</sup>

### 4.2 The Enhanced Information Rule Change and suggested reforms

In March 2015, the Energy Council of the Council of Australian Governments submitted a National Gas Rule change request and proposal entitled *Gas Transmission Pipeline Capacity Trading: Enhanced Information* (“**Rule Change**”).

The Rule Change contemplates market participants providing further gas market information to the AEMO to be published on the National Gas Bulletin Board by the end of Quarter 1 in 2016. The market information to be disclosed under the Rule Change includes:

- (a) a three year outlook period for uncontracted primary capacity at each pipeline;
- (b) data on secondary capacity trading information;
- (c) detailed facility data, including geographic location and capacity of pipeline, storage and production systems; and
- (d) flow data by receipt and deliver points.

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<sup>2</sup> The ACCC is also conducting the East Coast Gas Inquiry. While the AEMC review and the ACCC inquiry are separate, the AEMC is treating the ACCC review as complementary to its own review and is working with the ACCC to co-ordinate on the separate processes. AEMC, *Stage 1 Final Report*, 10.

In addition to the Rule Change, the AEMC is considering whether any additional rule changes are required to address further information gaps identified by the Working Group.

### 4.3 Other information gaps and transparency issues

The review is wide-ranging in its scope and is focussing on all gas users (including LNG producers, alumina producers and other industrial users for whom outages or shutdowns may result in significant supplies of excess gas).

In addition to other issues, the AEMC's *Information Provision Working Group Discussion Papers* dated 18 September 2015 ("**Information Provision Papers**"), identified the following potential issue in relation to:

*"the lack of publicly available information on the demand side of the market and, in particular the LNG proponents' export and domestic market activities, particularly information on ... operational activities that may affect the domestic gas and electricity markets (for example, ramp up periods, outages of the LNG facilities or pipelines, maintenance periods for the LNG facilities or pipelines)."*<sup>3</sup>

The Working Group noted that the informational gaps and asymmetries "are significant and according to some stakeholders are already having an adverse effect on the efficiency with which gas and other resources are currently being allocated in the market and across other markets."<sup>4</sup>

The Information Provision Papers identify one potential way to address this issue is to:

*"Require LNG providers [and other large users] to report on any operational activities that may affect the domestic gas market or other markets on a regular basis."*<sup>5</sup>

QGC has been involved in the process and considers that this potential solution would require far greater specificity, the AEMC is currently considering the proposed changes listed in the Information Provision Papers, and is expected to release its draft report in early December 2015.

The National Gas Law currently contains civil penalty provisions for failure by gas market participants to provide AEMO with information they are required to provide under the National Gas Rules.

### 4.4 Connection with the ACCC authorisation process

The current AEMC review provides clear support for QGC's view that it is simplistic (and incorrect) to attribute many of the market transparency issues raised in ERM's, Stanwell's and ESAA's submissions to the Proposed Conduct.

There are, no doubt, certain information asymmetries between different market participants. However, these exist independently of, and prior to, the Proposed Conduct. For the reasons set out in this submission, they will not be materially exacerbated by the Proposed Conduct.

Accordingly, the most appropriate method of addressing these issues (to the extent that any additional transparency measures are required to ensure the efficient operation of markets) is through the AEMC process.

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<sup>3</sup> AEMC, *Information Provision Papers* - Working Paper No. 1, dated 21 August 2015, 9.

<sup>4</sup> Ibid 10.

<sup>5</sup> Ibid 11.

QGC considers it to be very important that any authorisation requirements do not pre-empt the outcomes of the AEMC's current review, or adopt an inconsistent or piecemeal approach to addressing issues that clearly arise prior to, and separately from, the Proposed Conduct.

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## **5 Further questions**

If the ACCC has any questions about the matters raised in this submission, QGC would be pleased to assist.

**30 November 2015**