the voice of australia's oil and gas industry

Submission

December 2021

Options to advance the east coast gas market

CONTENTS

EXECUTIVE SUMMARY

Introduction

- APPEA welcomes the opportunity to provide comment on the Department of Industry, Science, Energy and Resources (the Department) *Options to advance the east coast gas market* paper (the Consultation Paper). In addition to this APPEA submission, a number of APPEA members have made individual submissions on the Issues Paper. This response should be read in conjunction with submissions from individual APPEA members.
- APPEA's submission addresses specific aspects of the Consultation Paper, focussing on those areas that are particularly important for the upstream oil and gas industry. APPEA's submission has been informed by work commissioned from The Brattle Group. The Brattle Group report, *Improving the Wallumbilla Hub*, discusses a number of reform options relevant to the Consultation Paper.

The development of existing east coast gas market arrangements

- The upstream oil and gas industry played a central role in the development of the numerous existing east coast gas markets and the other east coast gas market supporting/information elements as well as the institutional arrangements that support the market.
- APPEA would welcome the opportunity to discuss further with the Department whether there would be value in establishing a process to work with the Department and other jurisdictions on the proposed roadmap.

The Australian upstream oil and gas industry

- Reliable, secure, cleaner and competitively priced energy is crucial to our everyday lives in Australia and to the region in which Australia is importantly placed.
- Australia's oil and gas industry is a key and ongoing contributor to the Australian economy. Maintaining this ongoing and multi-billion dollar contribution will be vital as Australia looks to its ongoing recovery from the COVID-19 recession.
- The continued expansion of Australia's oil and gas industry offers opportunities to all Australians to provide cleaner and lower emissions energy to the region. The economic advancement in our region is overwhelmingly positive for the nation, playing to our comparative advantages as a secure and reliable energy exporter.
- This means that the stakes are high in realising the industry's potential benefits. The decisions flowing from the east coast gas market design process and proposed roadmap will, along with the other reform processes underway, play an important role in determining whether the industry can realise its potential and whether (or not) Australians, as the owners of Australia's oil and gas resources, benefit from new upstream oil and gas investment opportunities.

A broader context for this consultation: the development of the east coast gas market and the role industry has played in supporting economic growth during COVID-19 and can play in supporting economic recovery

- Australia's oil and gas industry has helped shield the country from more damaging economic fallout from the COVID-19 global pandemic by supporting jobs, preserving energy security and delivering important export income.

- The Australian oil and gas industry, throughout the entirety of this ongoing global pandemic, has maintained vital energy supplies to domestic and industrial customers and met all of its export contract obligations.

Economic dividends from securing a new wave of oil and gas development and the importance of Australia's investment environment

- The upstream oil and gas industry can be in and of itself a major source of economic growth and employment – its contribution to the Australian economy is far more widespread, and important, than a narrow view of the role it plays in supplying natural gas to a subset of Australian manufacturing.
- Australia's reputation as a reliable supplier of LNG is a vital component of the industry's competitiveness and has been a key factor in the industry's ability, across Australia, to establish stable long-term relationships with customers and to attract investment into the industry in a fiercely competitive global environment.
- In addition, investment by the industry in domestically focussed exploration and production depends crucially on an investment environment that encourages such activity and does not place unnecessary policy and regulatory roadblocks that risk impeding those investments.
- The billions of dollars invested in Australia in developing these projects has also directly benefitted the domestic market. Often overlooked is that the LNG industry is and will remain a very large supplier of domestic gas to the east coast gas market.

Rationale for undertaking consultation

- APPEA notes that the rationale for undertaking consultation is based on Energy Ministers agreeing in June 2021 to progress priority gas reform workstreams to support liquidity, competition and investment in the sector.
- APPEA is broadly supportive of consultation into the Wallumbilla GSH. Furthermore, APPEA agrees as to the complexities and interactions between the market. APPEA supports a very considered approach which requires careful examination of proposed "improvements" to avoid any unintended consequences, including a cumbersome burden on participants or any adverse interruption to the overall operation of a well-functioning market more broadly.

Consultation Focus 1: Wallumbilla Gas Supply Hub

Questions on potential problems at Wallumbilla GSH

- APPEA and its members will always be interested in gas market reform that can enhance the operation and efficiency of the gas market.
- APPEA agrees that the identified potential problems – higher flexibility of bilateral trades, lack of anonymity while trading, small number of active participants, inconsistent and high credit requirements and unconsolidated trading liquidity – may be affecting participation at the GSH and hence liquidity in the market.
- More broadly, determining the details of a redesigned Wallumbilla Hub and implementing the changes will take some time. It is also the case that any redesign must take into account existing contracts and maintain the sanctity of existing contractual rights.
- However, ***some of the reforms proposed in the Consultation Paper could be implemented more quickly and in parallel***.

Questions on anonymised delivery

- APPEA is generally supportive of the anonymisation of transactions at the GSH. Adjusting the operation of the Wallumbilla Hub to make trading fully anonymous may benefit liquidity, as the current lack of anonymity could be a barrier to trading. This is potentially a short-term refinement which may provide improvements to the framework with few costs to the market.
- ***However, more detail is required before definitive support can be provided.*** The details and practicalities of the design framework are intrinsic to providing strong support by APPEA and its members. This is an option which could be introduced relatively quickly.

Questions on streamlining prudential requirements

- As with the recommendations concerning anonymising delivery of contracts, APPEA is broadly supportive of streamlining prudential requirements. Reducing administrative and financial burden on market participants is encouraged.
- ***However, more detail is required before definitive support is provided by APPEA and its members.***
- One model worthy of further consideration would be to net the collateral requirements across the different markets that AEMO operates. This model would not increase AEMO's exposure to credit risk. Like the anonymised option, streamlining prudential requirements could be introduced in a relatively short time frame.

Questions on virtual hub design

- As with the previous options, and the market maker options discussed below, APPEA considers that ***substantial work needs to be undertaken before a definitive industry view can be put forward.*** As the use of the GSH would remain voluntary, any changes would have to encourage participants to use the Hub, otherwise participants would use other mechanisms to trade.
- Additionally, any market design change needs to be undertaken after extensive cost benefit analysis and have the caveat of allowing the market to operate freely ***without government intervention***.
- Detailed analysis is required to enable market participants to provide a considered view on the options contained in the Consultation Paper.

Questions on market making

- APPEA considers the concept of a market maker regime potentially worthy of further investigation and consideration. ***Substantial detail is required before market participants can make a judgement on the practicalities of a market maker***. Additionally, it is important to be cognisant that the options under consideration will have differing levels of success in increasing liquidity.
- Introducing a market maker may not be appropriate or necessary if some of the earlier options increase liquidity.
- APPEA considers it prudent to assess this success of these options, particularly the Hub redesign issues considered above, before committing to such a significant change.

Questions on other options considered

Reviewing fees for licences and use of the market platform

- Lowering fees to encourage more participation is worthy of further consideration. However, APPEA considers that the Paper's views on participants willing to pay the fees if the liquidity is increased is a premise that would need significant examination.

Introducing longer tenor forward products

- APPEA considers that this is potentially worthy of further consideration. However, it would be beneficial to gauge market participant's appetite for such products prior to introduction.

Running educational programs for C&I users

- APPEA considers that more analysis needs to be undertaken assessing why C&I users are not participating and whether an education program would change their behaviour.

Other enabling framework reform options

Spectrum of regulation applicable to gas infrastructure

- Whether to apply some kind of economic regulation to upstream oil and gas infrastructure is an issue that has been considered – ***and rejected*** – on numerous occasions over the last two decades.
- That an expansion of the regulatory framework for the upstream oil and gas industry of this kind is even contemplated sends a disturbing signal.
- Such an approach would work directly against the Government's stated policy intention when announcing the consultation process and risk the very outcomes the Wallumbilla hub design process is designed to achieve.
- To ensure the market can grow and depth and liquidity can increase, more investment in gas exploration, development and supply is required, not more regulation. APPEA recommends the Department not pursue any option but focus its attention on Consultation Focus 1 and 2.

Third-party access to gas infrastructure

- Companies operating in the east coast market cover the whole spectrum of exploration and production activities, usually working in joint ventures to share the high costs and high capital risks associated with these activities. Given this range of activities, companies, whether large or small, can at times be operators of upstream facilities and at times be seekers of access to such facilities/infrastructure. There have been a number of third party access arrangements commercially negotiated and successfully concluded in recent years.
- APPEA has for many years encouraged commercial negotiation as the mechanism for establishing access to gas infrastructure and has also noted that failure to agree on the terms and conditions, including price, does not in itself indicate the failure of commercial negotiations or of the market. This means that there is no role for a regulated third party access regime to apply to gas infrastructure, including LNG production facilities.
- The Department should not pursue these additional regulatory options but focus its attention on Consultation Focus 1 and 2.

Potential government support for infrastructure

- The *Future Gas Infrastructure Investment Framework*, released on 26 November 2021, provides an appropriate framework to consider whether there is a role for government support to enable investment in additional capacity.
- Noting the appropriately demand-driven nature of the Investment Framework, APPEA would note investment in additional capacity to support Wallumbilla GSH could be an early focus of the Framework.
- Given the Investment Framework was announced less than a month ago and is yet to be implemented, there seems little reason at this stage to consider a different or additional government support process.

Conclusions/next steps

- APPEA and its members would welcome the opportunity to meet to further discuss these and any other relevant issues. APPEA looks forward to the findings of the consultation in 2022 and to further constructive engagement with the Department as the market design focus (Consultation Focus 1) and pipeline capacity trading focus (Consultation Focus 2) proceeds.

INTRODUCTION

The Australian Petroleum Production & Exploration Association (APPEA) is the peak national body representing Australia's oil and gas exploration and production industry. It has more than 60 full member companies. These are oil and gas explorers and producers active in Australia. APPEA members account for around 95 per cent of the nation's petroleum production. APPEA also represents more than 140 associate member companies that provide a wide range of goods and services to the upstream oil and gas industry.

APPEA works with Australian governments to help promote the development of the nation's oil and gas resources in a manner that maximises the return to the Australian community and industry. APPEA aims to secure regulatory and commercial conditions that enable member companies to operate safely, sustainably, and profitably.

APPEA welcomes the opportunity to provide comment on the Department of Industry, Science, Energy and Resources (the Department) *Options to advance the east coast gas market* consultation paper (the Consultation Paper). In addition to this APPEA submission, a number of APPEA members have made individual submissions on the Consultation Paper. This response should be read in conjunction with submissions from individual APPEA members.

APPEA's submission addresses specific aspects of the Consultation Paper, focussing on those areas that are particularly important for the upstream oil and gas industry. APPEA's submission has been informed by work commissioned from The Brattle Group. The Brattle Group report, *Improving the Wallumbilla Hub*, can be found at Attachment 1[1]. The report considers the role of the Wallumbilla GSH and discusses a number of reform options relevant to the Consultation Paper. The report has informed aspects of APPEA's comments in response to Chapter 3 of the Consultation Paper.

As is considered further below, APPEA's submission is primarily focussed on Chapters 2, 3 and 5 of the Consultation Paper. We have not offered details comments on Chapter 4 of the Consultation Paper but are aware that a number of APPEA members have offered comments in their submissions, and we would refer you to those comments. As with other aspects of the Consultation Paper, APPEA recommends further consideration, development and consultation with be required before any decisions are made in relation to the issues raised in Chapter 4.

THE DEVELOPMENT OF EXISTING EAST COAST GAS MARKET ARRANGEMENTS

This most recent phase of east coast gas market reform and development follows number of reform and market development processes that commenced in 2005 that, amongst things, resulted in the establishment of the Wallumbilla Gas Supply Hub (Wallumbilla GSH) in 2014.

Through APPEA, the upstream oil and gas industry played a central role in the development of the numerous existing east coast gas markets (the Short-Term Trading Markets (STTMs), Gas Supply Hubs (GSHs) and the (pre-existing) Declared Wholesale Gas Market (DWGM)) and the other east coast gas

[1] As the report notes, APPEA engaged The Brattle Group to help APPEA develop ideas for improving the functioning of the Wallumbilla Hub. They led a series of workshops with APPEA members, and also met with individual members in a process to generate and test ideas. Once the Consultation Paper was released, they also discussed the ideas in that paper relating to the hub with APPEA members. Their report results from that process and benefits from suggestions and feedback provided by APPEA members. Nonetheless, it is a Brattle report, and the opinions it contains are those of the authors alone and should not be read as APPEA positions.

market supporting/information elements (such as the Gas Bulletin Board (GBB) and *Gas Statement of Opportunities* (GSOO)) as well as the institutional arrangements that support the market (particularly the Australian Energy Market Operator (AEMO) and Australian Energy Market Commission (AEMC)).

Much of this was through APPEA's membership of the Gas Market Leaders Group (GMLG), which produced in June 2006 the *National Gas Market Development Plan*, provided to the then Ministerial Council on Energy. The Development Plan set out an industry-led process that resulted in the GBB, GSOO and STTMs and market governance arrangements that led to the establishment of AEMO and the AEMC.

Following the Development Plan report in 2006, a series of working groups were established and the GMLG continued to meet during 2006-2009 providing guidance on the implementation of its recommendations.

APPEA's perspectives on the further development of the GSH at Wallumbilla and broader east coast gas market reform options draw on this extensive experience in the previous phases of the development process.

APPEA would welcome the opportunity to discuss further with the Department whether there would be value in establishing a GMLG-type process to work with the Department and other jurisdictions on the proposed roadmap that, as noted on page xiv of the Consultation Paper, will aim to identify the most prospective market reform options and set out a plan for their further consideration and development, consultation, and potential implementation.

THE AUSTRALIAN UPSTREAM OIL AND GAS INDUSTRY

It is important to place our views on the issues raised by the Consultation Paper within the context of the current state and potential future contribution of the upstream oil and gas industry to the Australian economy and to the welfare of all Australians.

Reliable, secure, cleaner and competitively priced energy is crucial to our everyday lives in Australia and to the region in which Australia is importantly placed. Within this framework, oil and gas plays a key role in meeting many of our energy needs. In 2019-20 oil and gas accounted for 67.4 per cent of all energy consumed in Australia[2]. Australia's oil and gas industry is a key and ongoing contributor to the Australian economy. The industry:

- Invested an estimated $473 billion in the Australian economy – including around $305 billion invested in Australian LNG projects – during 2010-2020[3].
    - o The contribution of Australia's oil and gas industry to the Australian economy, and to the economic welfare of all Australians is illustrated in a variety of ways, including by the investment made into the Australian economy by the industry since 2010. This is shown in Figure 1. The industry has invested $US20 billion-$US55 billion – around $A26 billion-

[2] See Energy consumption | energy.gov.au for more information.
[3] See Wood Mackenzie (2020), *Australian Oil and Gas Industry Outlook Report*, page 4 (available at Australia-Oil-and-Gas-Industry-Outlook-Report.pdf (appea.com.au)).

$A72 billion at current exchange rates – every year since 2010, and at times during this period, was directly responsible for nearly half of Australia's economic growth[4].
  - This investment will deliver returns for Australia for decades to come, through increased gas supply for Australian customers, export revenue, jobs, royalties and taxes.
- Supports 80,000 jobs directly and indirectly in Australia and hundreds of thousands more in parts of the manufacturing sector.
- Supports a vast supply chain of businesses in manufacturing, services and construction.
  - This is in addition to the hundreds of thousands of jobs in electricity generation, manufacturing, transport and other industries which rely on our outputs.
  - Businesses ranging from national firms to local cafés all share in the economic benefits generated by the oil and gas industry[5].
- Contributed over 3 per cent Gross Domestic Production (GDP) and 11% of total exports in 2020-21.

No other single industry has made this contribution to Australia's growth and investment during the last decade. Maintaining this ongoing and multi-billion dollar contribution will be vital as Australia looks to its ongoing recovery from the COVID-19 recession and it will be vital that the outcomes of this market development process support this contribution.

In addition, LNG is now one of Australia's largest commodity exports, with export revenue of around $51 billion in 2018-19 and $48 billion in 2019-20. While export revenue declined to $30 billion on the back of falls in the price of LNG in 2020-21, volumes were maintained and continued to supply export revenue for Australia during the COVID-19 global pandemic. LNG export earnings are expected to be $63 billion in 2021-22 as prices recover and increase and to be $55 billion in 2022-23[6].

In 2020-21, Australian LNG was exported to ten destinations (Japan, China, South Korea, Malaysia, Singapore, Taiwan, Thailand, United Arab Emirates and Other Asia-Pacific). Many of these nations are also significant investors in Australian LNG projects and carry significant project risk. Each of these trading partners are also closely observing policy and regulatory developments in Australia.

The continued expansion of Australia's oil and gas industry offers incredible opportunities to all Australians to provide cleaner and lower emissions energy to the region. The economic advancement in our region is overwhelmingly positive for the nation, playing to our comparative advantages as a secure and reliable energy exporter.

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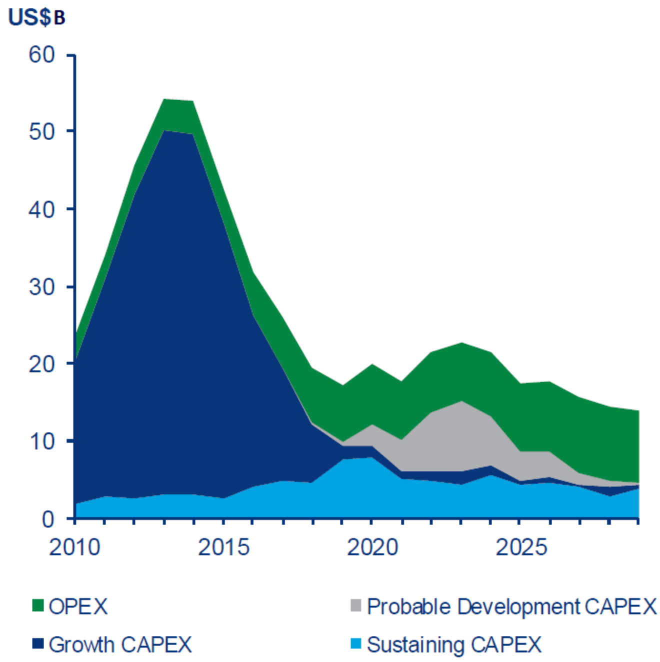
[4] For example, in its August 2017 *Statement on Monetary Policy*, the RBA found: *"LNG exports are expected to contribute almost ½ a percentage point directly to annual GDP growth"*, confirming how significant LNG exports are to sustaining economic growth in Australia. See Statement on Monetary Policy – August 2017 | RBA, page 33 for more.

[5] As an example, work for APPEA by Lawrence Consulting released in 2019, found the natural gas industry contributed around $55 billion to Queensland's economy over a seven year period. Almost $5 billion was spent on wages state-wide during the period with the industry employing around 4,600 full-time employees, according to the *Economic Impact of Queensland's Petroleum and Gas Sector 2011-18* report. The industry spent around $50 billion on goods and services from local community contributions and payments to local government as well as royalties, stamp duty and tax, the report found. See Natural gas powering Queensland's economy | APPEA for more information.

[6] See Office of the Chief Economist - Resources and Energy Quarterly - December 2021 (industry.gov.au) (page 72) for more information.

Figure 1. Oil and gas investment in the Australian economy since 2010



Source: Wood Mackenzie (2020).

This means that the stakes are high in realising the industry's potential benefits. The decisions flowing from the east coast gas market design process and proposed roadmap will, along with the other reform processes underway, play an important role in determining whether the industry can realise its potential and whether (or not) Australians, as the owners of Australia's oil and gas resources, benefit from new upstream oil and gas investment opportunities.

A BROADER CONTEXT FOR THIS CONSULTATION: THE DEVELOPMENT OF THE EAST COAST GAS MARKET AND THE ROLE INDUSTRY HAS PLAYED IN SUPPORTING ECONOMIC GROWTH DURING COVID-19 AND CAN PLAY IN SUPPORTING ECONOMIC RECOVERY

Australia's oil and gas industry has helped shield the country from more damaging economic fallout from the COVID-19 global pandemic by supporting jobs, preserving energy security and delivering important export income.

The Australian oil and gas industry, throughout the entirety of this ongoing global pandemic, has maintained vital energy supplies to domestic and industrial customers and met all of its export contract obligations.

Our ability to secure the next wave of investment in oil and gas exploration and production has strong foundations but faces intense challenges. The investment landscape is riskier, with higher hurdle rates, and global competition for mobile capital is fierce. Many producers are now focusing on smaller, incremental projects. This means there is an urgency to address Australia's competitive position through effective and nationally cohesive policy settings that reduce rather than increase barriers to investment or, worse still, impose new ones. This includes the outcomes of this consultation process.

ECONOMIC DIVIDENDS FROM SECURING A NEW WAVE OF OIL AND GAS DEVELOPMENT AND THE IMPORTANCE OF AUSTRALIA'S INVESTMENT ENVIRONMENT

The economic dividends from securing a new wave of upstream oil and gas developments are large. Economic analysis prepared by EY as part of their report, *Australia's oil and gas industry: kickstarting recovery from COVID-19*[7], found that if we can secure the key projects which are in the industry pipeline, then under their "high growth trajectory" scenario national economic output is estimated to increase by over $350 billion with over 220,000 jobs created over the next two decades.

These results are important reminders that the upstream oil and gas industry can be in and of itself a major source of economic growth and employment – its contribution to the Australian economy is far more widespread, and important, than a narrow view of the role it plays in supplying natural gas to a subset of Australian manufacturing.

Australia's reputation as a reliable supplier of LNG is a vital component of the industry's competitiveness and has been a key factor in the industry's ability, across Australia, to establish stable long-term relationships with customers and to attract investment into the industry in a fiercely competitive global environment.

In addition, investment by the industry in domestically-focussed exploration and production depends crucially on an investment environment that encourages such activity and does not place unnecessary policy and regulatory roadblocks that risk impeding those investments.

Decisions flowing from the Department's consultation process and the further development of Australian gas hub at Wallumbilla need to be considered within this context.

These benefits will be felt across Australia, including in the regional areas in which the industry operates. In Queensland, for example, EY found[8] in their September 2021 report, *The economic contribution of Queensland's oil and gas industry*, that the industry has already added $106 billion or 3 per cent each year to the Queensland economy over the last decade, employing more than 36,000 workers and paying $13 billion in taxes and charges. EY also found that under a "high growth scenario", Queensland's gas industry potential could result in:

- A further $30 billion in investment resulting in 7,000 petajoules (PJ) of production capacity in the Queensland oil and gas industry over the next 20 years.
- A further $129.3 billion could be added to Queensland's Gross State Product in the next twenty years under a high growth scenario, with Queensland's economic output due to gas being $8.7 billion higher in 2026 – this represents almost 2.5 per cent of the Queensland economy.
- Almost 2,200 extra full-time jobs created in 2026 under a high growth scenario.

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[7] See EY (2020), *Australia's oil and gas industry: kickstarting recovery from COVID-19*, page 7 (available at Oil and gas industry continuing to support Australia's economic recovery from COVID-19 | APPEA and EY-Report-Australias-oil-and-gas-industry-Kickstarting-recovery-from-COVID-19.pdf (appea.com.au)). The report's "high growth trajectory" scenario encompasses investment and production for oil and gas projects that are under development or have a high level of investor commitment and capital expenditure to sustain existing facilities and fields. In addition, the scenario includes oil and gas investments and associated production yields for projects that are considered prospective, but which have higher development uncertainty and have not yet secured firm commercial commitments. It highlights a visible frontier of resource development and industry expansion that could be realised.

[8] EY (2021), *The economic contribution of Queensland's oil and gas industry*, 8 September (see Media release: Queensland gas could be bigger than Olympics | APPEA and Use Panels to hold statements (appea.com.au) for more information).

The billions of dollars invested in Australia in developing these projects has also directly benefitted the domestic market. Often overlooked is that the LNG industry ***is and will remain a very large supplier of domestic gas*** to the east coast gas market.

The scale of investment required to commercialise onshore gas developments on the east coast, particularly for those onshore developments that do not have the liquids to support the production of gas which has, for example, helped underpin the economics of shale gas development in the US, and the relatively small size of the domestic market, has meant – as is the case for so many Australian industries – an export path to market was always required to develop these resources. Put another way, the Australian east coast domestic gas market is simply not large enough to support the scale of investment required to develop Australia's substantial oil and gas reserves.

While the development of a deeper and more liquid east coast gas market, supported by the further development of the Wallumbilla GSH and a pipeline capacity trading framework, can be an important and useful next step, it must be viewed within the context of what can be achieved in a market with the inherent characteristics of the east coast gas market. The market's relatively small size, the foundational role long-term gas supply agreements have played in market development since the market commenced in the 1960s and the relatively small role the various GSHs, STTMs and the DWGM have so far played—all signal the scale of the challenge in achieving more liquid trading and a transparent reference price.

In addition, implicit in much of the "criticism" of LNG exports is a presumption that if this gas was not developed for export, the same gas would have been developed for the domestic market. This is the wrong counterfactual.

Without an export market to commercialise these resources, they would in many cases have remained in the ground because the Australian domestic market is simply not large enough to support the investment necessary for economically sustainable resource development. In that circumstance, the east coast market would today be facing a different and challenging situation, without this investment and the benefits that have flowed from it to the domestic market would not have been realised.

One of the major challenges to the industry's continued growth and contribution to Australia is maintaining Australia's international competitiveness in the face of growing global competition. This is true for both domestic and export-focussed investments. In the case of LNG, a relatively high-cost local environment and the emergence of new LNG competitors in North America, East Africa and Russia and increasing competition from existing competitors such as Qatar and elsewhere will make it much harder to win market share and attract future investment.

Further project development and more gas flowing into both domestic and export markets will be key to ensuring the benefits from the further development of the east coast gas market are fully released.

Some impacts on current and future investment, such as exchange rates or global oil prices, are largely beyond the ability of industry to influence. However, other key challenges must be addressed. Australia's perception as a welcoming destination for investment has declined, including for petroleum investment. It is vitally important the outcomes from this consultation and the resulting development roadmap do not add to these challenges.

COMMENTS ON SPECIFIC ASPECTS OF THE CONSULTATION PAPER

The following sections consider Chapters 2, 3, 4 and 5 of the Consultation Paper and provide comments on various parts of those chapters (particularly Chapters 2, 3 and 5). As noted above, in addition to this APPEA submission, a number of APPEA members have made individual submissions on the Consultation Paper. This response should be read in conjunction with submissions from individual APPEA members. APPEA's submission is primarily focussed on Chapters 2, 3 and 5 of the Consultation Paper. We have not offered comments on Chapter 4 of the Consultation Paper but are aware that a number of APPEA members have offered comments in their submissions, and we would refer you to those comments.

With that in mind, APPEA offers the following comments on those aspects of the Consultation Paper of most interest/relevance to the Australian upstream oil and gas industry. At this stage of the consultation process, ***in reference to the lack of detail that the Consultation Paper contains, APPEA considers that comments on the broad direction of options is appropriate rather than detailed remarks on the questions posed***.

CHAPTER 2. RATIONALE FOR UNDERTAKING CONSULTATION

APPEA notes that the rationale for undertaking consultation is based on Energy Ministers agreeing in June 2021 to progress priority gas reform workstreams to support liquidity, competition and investment in the sector. The consultation has been drafted with reference to the National Gas Objective, the Strategic Energy Plan and the Australian Gas Market Vision.

Current state of gas market

Section 2.1 of the Consultation Paper provides particularly perspective on the development and current state of the east coast gas market. Another perspective was provided above and in more detail in APPEA's submissions[9] to the ACCC's *LNG netback price series review* (where the ACCC's conclusions were in line in every aspect with the APPEA submission and the industry more broadly) and the APPEA submission[10] to the ACCC's *Review of upstream competition and the timeliness of supply*) and APPEA would refer you to the detail contained in each of those submissions.

Section 2.1.2 on page 19 asserts

> *Demand for LNG exports from Gladstone is a key driver of the flows through northern gas markets. However, globally, LNG is a volatile and uncertain market currently. The JKM index for international gas prices is a useful indicator of LNG demand expectations. For example, while LNG demand declined as a result of the price impact of COVID-19 on international LNG prices, the subsequent spike in January 2021 to higher value. International price spikes such as these, and the increasing international price movements in recent months, show the importance of ensuring there is plentiful gas supply to meet consumer expectations around security and price. The risk is particularly pertinent given the forecast supply shortfalls in the*

[9] See LNG netback price series review | ACCC for copies of the APPEA submissions to the Review.
[10] See Review of upstream competition and the timeliness of supply | ACCC for a copy of the APPEA submission to the Review.

southern states, and recent experiences in Europe, where constrained gas supplies led to a spike in gas prices and significant flow-on impacts, including to business productivity and residential energy costs.

A couple of the points raised in this series of assertions require clarification. While there has been some volatility in LNG spot markets, it is important to remember that at any given time around 75-80% of LNG is traded under long-term contracts that do not exhibit the short-term volatility in spot markets (just as is the case in the domestic gas market, where short-term sport price volatility is not reflected in long-term gas supply agreements). To the extent volatility resulting in higher spot prices provided opportunities for higher value spot sales, this is unequivocally to Australia's advantage.

In addition, and very importantly, this volatility and the price increases witnessed in LNG spot markets was not reflected in the domestic spots market and most certainly not in longer-term contract prices. For example, as APPEA noted in out October 2021 submission to the ACCC on 8 October 2021, the LNG netback price at Wallumbilla was $73.93/GJ, while the Wallumbilla gas supply hub (GSH) daily price was $7.60/GJ or $66.33/GJ lower[11].

While prices will vary from time-to-time, and as the ACCC has itself noted[12], its LNG netback price series does not represent the ACCC setting a level of gas prices in the east coast gas market or any other market in Australia or forecasting international or domestic gas prices. The events of early October 2021 provide a clear case study of a situation where LNG netback prices are substantially higher than the costs of domestic production and domestic prices are substantially[13] lower than the LNG netback price[14].

In a period of significant instability in global gas markets, including in Asia where LNG spot prices have reached unprecedented high levels, competition in the east coast gas market and action by producers has ensured that domestic spot prices have not increased (and contract prices have remained largely unaffected).

It is also important to recall that AEMO has since 2017 forecast a surplus in the east coast gas market as a whole in each of its *Gas Statement of Opportunities* reports and that the shortfall forecast in March 2017 was revised away by June 2017 and did not eventuate.

Questions on objectives of Energy Ministers

The Paper seeks views on the rationale presented for undertaking the consultation, whether there are any other issues which have not been identified and general comments on the proposed objectives.

[11] Macquarie Bank (2021), *Hydrocarbon Herald*, 8 October.
[12] See LNG netback price series | ACCC for more information.
[13] The $66.33/GJ difference (with the Wallumbilla LNG netback price above the Wallumbilla daily price) recorded on 8 October 2021 marks the largest difference between the Wallumbilla daily price and the Wallumbilla LNG netback price ever recorded.
[14] Macquarie Bank (2021), *Hydrocarbon Herald*, 6 and 7 October. On 6 and 7 October 2021, the Wallumbilla GSH daily price was lower than the US Henry Hub daily price (on 6 October 2021, the Wallumbilla GSH daily price was A$7.28/GJ compared to the Henry Hub daily price of A$8.21/GJ, while of 7 October 2021, it was A$7.28/GJ compared to the Henry Hub price of A$7.48/GJ.

APPEA is broadly supportive of consultation into the Wallumbilla GSH. Furthermore, APPEA agrees as to the complexities and interactions between the market. APPEA supports a very considered approach which requires careful examination of proposed "improvements" to avoid any unintended consequences, including a cumbersome burden on participants or any adverse interruption to the overall operation of a well-functioning market more broadly.

APPEA agrees that the potential gains from improved liquidity are significant. Improved liquidity enables the generation of a transparent reference price. This can in turn result in accurate investment signals and market confidence in participating in the Wallumbilla GSH without the need to undertake bilateral contract negotiations (noting that trade through the GSH will always sit alongside longer-term contract arrangements and other options for commercial transactions).

CHAPTER 3. CONSULTATION FOCUS 1: WALLUMBILLA GAS SUPPLY HUB (GSH)

The Consultation Paper's discussion on the Wallumbilla GSH notes that the GSH has access to abundant natural gas resources and significant gas transport, storage and export infrastructure. However, participation at the GSH is still low.

The Consultation Paper further asserts that liquid, transparent trade encourages the establishment of a stable, trusted reference gas price which would enable participants to have greater confidence in their ability to trade, hedge and make long-term investments. The Government's objective is to make it easier and more attractive for participants to trade on the GSH.

Questions on potential problems at Wallumbilla GSH

APPEA and its members will always be interested in gas market reform that can enhance the operation and efficiency of the gas market and we note that the trading arrangements at the Wallumbilla GSH are very different to the arrangements at the STTMs and the DWGM.

Additionally, it is worth noting that off-market trading is also possible at Wallumbilla GSH. This allows market participants to transact bilaterally. These off-market trades terms are often different to standard products listed at the GSH, which means that while they may not increase liquidity at the hub itself, they do provide a useful mechanism for participants to transact. Maintaining this facility would be desirable in any future design work. Additionally, APPEA considers that a lot of market participants use the Wallumbilla GSH to balance or fine-tune their portfolios. This does not increase liquidity or encourage a reference price to be established but it does encourage smooth market operation.

APPEA agrees that the identified potential problems – higher flexibility of bilateral trades, lack of anonymity while trading, small number of active participants, inconsistent and high credit requirements and unconsolidated trading liquidity – may be affecting participation at the GSH and hence liquidity in the market.

More generally, it is worth noting that the Henry Hub services a much larger market than that of the Wallumbilla GSH. It is difficult to make meaningful generalisations about the Henry Hub design framework and assume the same situation/design would be relevant for Australia[15]. However, it is

[15] See How to ignite a Gas Fired Recovery | APPEA for more information.

still important to examine overseas markets (beyond the Henry Hub) to glean potential characteristics which may be relevant for Australia, bearing in mind the different market sizes. APPEA would support further work being undertaken in this area.

More broadly, determining the details of a redesigned Wallumbilla Hub and implementing the changes will take some time.

Importantly, any redesign must take into account existing contracts and maintain the sanctity of existing contractual rights. For investors this is necessary to support the substantial investment they have made in gas projects. Undermining their investment sends poor investment signals and will impact future investment.

In addition, LNG infrastructure projects are planned, designed and operate on the basis of firm and long-term gas supply. Contracts are required to provide that certainty of gas supply as well as certainty in relation to transportation and compression requirements. This certainty ensures LNG plants can operate safely and efficiently and ultimately enable contractual commitments to be met.

Therefore it is important that any hub/market design ensures the sanctity of existing contracts/contractual rights.

However, some of the reforms proposed in the Consultation Paper could be implemented more quickly and in parallel. These reforms are considered in the following sections.

Questions on anonymised delivery

7. *What benefits could anonymised delivery offer for gas market participants which could assist in achieving the objectives in Chapter 2.4? What do you think the costs and benefits of implementingsuch an option would be to your business in terms of your participation in the Wallumbilla GSH?*
8. *What do you believe would be the most appropriate design for an anonymised delivery model at Wallumbilla GSH?*
   a) *Is a model which emulates the CTP most appropriate for anonymised delivery of gas traded through the GSH?*
   b) *What balancing regime represents the best trade-off of complexity and benefit to liquidity?*
   c) *Would implementation via a Rule change or bilateral agreement be more preferable in terms of achieving the NGO?*
9. *In terms of an implementation roadmap, what importance would you place on addressing this issueand over what timeframe?*

Along with streamlining prudential requirements, anonymised delivery provide reform options that will improve the current design and would also be compatible with a redesigned/expanded GSH, although these changes are unlikely by themselves to induce a step change in liquidity.

As noted in the Consultation Paper, the existing GSH model allows participants to be matched on the exchange and transfer of title of gas between counterparties in a bilateral and manual process. There are market concerns that this model may allow commercially sensitive information to be revealed and hence discourage participation in the market.

APPEA is generally supportive of the anonymisation of transactions at the GSH. Adjusting the operation of the Wallumbilla Hub to make trading fully anonymous may benefit liquidity, as the current lack of anonymity could be a barrier to trading. This is potentially a short-term refinement which may provide improvements to the framework with few costs to the market. However, more detail is required before definitive support can be provided. The details and practicalities of the design framework are intrinsic to providing strong support by APPEA and its members. This is an option which could be introduced relatively quickly.

Questions on streamlining prudential requirements

10. *Do you think there is likely to be a net benefit in harmonising prudential requirements across the east coast facilitated gas markets? What effect do you think this will have on your business, and suppliers and users more generally?*
11. *Do you think the introduction of the ASX physical delivery futures product will alleviate the currentconcerns around collateral requirements of forward-dated products? If not, please explain why.*
12. *Which option for sharing prudential requirements do you consider would be likely to offer best value for money? Are there other options that should be considered?*
13. *In terms of an implementation roadmap, what importance would you place on addressing this issue and how quickly do you think it needs to be addressed?*

Currently, in order to trade in the east coast gas market, participants must have separate credit support at each market they participate in. Forward products traded on the GSH are treated similarly to spot purchases, requiring buyers to provide credit support based on the full face-value of the transaction. Additionally, at Wallumbilla there are eight trading points across the GSH, which results in buyers having to have numerous contractual arrangements in place.

As with the recommendations concerning anonymising delivery of contracts, APPEA is broadly supportive of streamlining prudential requirements. Reducing administrative and financial burden on market participants is encouraged. However, more detail is required before definitive support is provided by APPEA and its members.

One model worthy of further consideration would be to net the collateral requirements across the different markets that AEMO operates. This model would not increase AEMO's exposure to credit risk. Like the anonymised option, streamlining prudential requirements could be introduced in a relatively short time frame.

Questions on virtual hub design

18. *What benefits do you think a virtual hub for Wallumbilla GSH could introduce and why? Do you thinkit could make it easier for your business to trade gas?*
19. *Do you have views on the design details that would need to be considered in designing a virtual hub, for instance which form of carriage model or balancing regime would be most appropriate?*
20. *What level of regulation should be imposed upon the hub operator? And what activities should be regulated as part of this? Should consideration be given to an independent hub operator?*
21. *Regarding the idea of expanding a virtual hub to encompass the SEQ trading location and the Brisbane STTM:*
    a) *What additional benefit would this provide your business, and the gas market generally, compared to a virtual hub covering Wallumbilla alone?*

b) *What are the major risks associated with this proposal, particularly considering management of existing contracts and congestion?*
c) *Would a liquid trading hub be an adequate replacement for the mandatory Brisbane STTM?*

22. *In terms of an implementation roadmap, are there other considerations which should be consideredfor future consultation and assessment, if this option was to be investigated further?*

Under current GSH trading arrangements, the WAL (Wallumbilla trading location) product includes multiple delivery locations. A buyer must have the contractual right through a transport agreement to receipt gas at each of the delivery points that form part of the WAL definition. The Consultation Paper suggests that this design aspect may be discouraging active participants and consequently having a negative impact on liquidity.

As with the previous options, and the market maker options discussed below, APPEA considers that substantial work needs to be undertaken before a definitive industry view can be put forward. As the use of the GSH would remain voluntary, any changes would have to encourage participants to use the Hub, otherwise market participants would use other mechanisms to trade in gas. Additionally, any market design change needs to be undertaken after extensive cost benefit analysis and have the caveat of allowing the market to operate freely without government intervention.

APPEA notes that expanding the pool of market participants able to trade with one another without incurring significant costs to do so has the potential to increase liquidity. However, there are considerable issues that need to be resolved, for example who pays for the pressure service required to be able to trade products of different pressures, how infrastructure is paid for and treatment of existing long-term transportation contracts.

Detailed analysis is required, including cost-benefit analysis, to enable market participants to provide a considered view on the options contained in the Consultation Paper.

Questions on market making

14. *Do you think a market making regime could make the Wallumbilla GSH better suited to your gas trading needs? Is a market making regime necessary in order to develop liquidity at Wallumbilla GSH or is this better achieved through other means?*
15. *What form of market making regime do you think would be most appropriate for achieving the objectives in Chapter 2.4?*
    a) *What parties would be most appropriate to be market makers (and in what markets e.g. physical, financial)? Should this be voluntary or mandatory in terms of participation?*
    b) *How do Energy Ministers ensure that there is minimal adverse impact to participants selected as market makers in such a regime? Are there elements of the design of market making regimethat could assist in minimising the implementation cost?*
    c) *What role (if any) could energy market bodies and/or governments play in facilitating a regimeat Wallumbilla GSH?*
16. *Does a market maker within the ASX physical futures product sufficiently reduce the need for an alternative market making regime for Wallumbilla?*
17. *In terms of an implementation roadmap, what additional work is required to consider the merits ofmarket making regimes and to assess the cost and benefits of different designs?*

Market makers are high volume traders that "make a market" for securities by always standing at the ready to buy and sell – they profit on the bid-ask spread and benefit the market by adding liquidity.

The Consultation Paper claims that a market making scheme could increase the volumes of trading and encourage a greater number of participants at the Hub.

Furthermore, it could enable more efficient risk management for smaller participants through providing access to firm quantities of gas to hedge longer-term positions and encourage a deeper forward market.

APPEA considers the concept of a market maker regime potentially worthy of further investigation and consideration. Substantial detail is required before market participants can make a judgement on the practicalities of a market maker. Additionally, it should be understood the options under consideration will have differing levels of success in increasing liquidity.

In mature gas markets, liquidity is provided on a commercial basis by market participants that are able to profit from doing so even at relatively tight bid-offer spreads, and there is no need for an official "market making" function.

Accordingly, the option of introducing a market maker may not be necessary if some of the earlier options increase liquidity. APPEA considers it prudent to assess the success of these options, particularly the Hub redesign issues considered above, before committing to such a significant change.

In addition, market forces and enabling the market to operate smoothly and efficiently should underpin any design concepts. Consequently, the market maker regime should be voluntary in nature with no mandatory requirements of market participants.

Questions on other options considered

23. *Do you agree with the initial analysis of these other options? Do you think there is merit in exploringthese options further in order to assess whether they could contribute to meeting the objectives outlined in Chapter 2.4?*
24. *Are there additional options which should be considered by Energy Ministers in more detail?*

Reviewing fees for licences and use of the market platform

Lowering fees to encourage more participation is worthy of further consideration. However, APPEA considers that the Paper's views on participants willing to pay the fees if the liquidity is increased is a premise that would need significant examination.

Introducing longer tenor forward products

APPEA considers that this is potentially worthy of further consideration. However, it would be beneficial to gauge market participant's appetite for such products prior to introduction.

Running educational programs for C&I users

APPEA considers that more analysis needs to be undertaken assessing why commercial and industrial (C&I) users are not participating and whether an education program would change their behaviour.

CHAPTER 5. OTHER ENABLING FRAMEWORK REFORM OPTIONS

APPEA notes a number of the enabling framework reform options raise issues that are larger than, and in a number of cases not directly related to, the main purpose of the Consultation Paper's focus on the Wallumbilla GSH and pipeline capacity trading arrangements.

APPEA's comments below respond to the policy/regulatory-related questions posed in Sections 5.1 and 5.3.

Spectrum of regulation applicable to gas infrastructure

Whether to apply some kind of economic regulation to upstream oil and gas infrastructure is an issue that has been considered – and rejected – on numerous occasions over the last two decades[16].

The conclusion on each occasion has been the same – the upstream oil and gas industry operates under an extensive multi-jurisdictional legislative and regulatory regime that provides a framework that regulates the industry's exploration, development, production and decommissioning activities from cradle-to-grave. No additional regulation of upstream oil and gas infrastructure is required.

Fundamentally, upstream facilities are unlike gas transmission pipelines which can have natural monopoly characteristics with upstream or downstream market interests to protect. Upstream facilities are and always have been properly classified as production facilities which do not come within the scope of the relevant provisions (Part IIIA) of the *Competition and Consumer Act 2010*. As there is no scope for impacting the upstream or downstream markets, APPEA sees no argument to support any form of regulated access.

No evidence to support an approach that would apply some kind of economic regulation to upstream oil and gas infrastructure is presented in the Consultation Paper and no case for an increase in the already substantial regulatory regime facing the Australian upstream oil and gas industry has been made. For example, the assertion on page 57 that *"… these facilities*[17] *can also exhibit natural monopoly characteristics …"* runs counter to the Department's own work in its 2020 *Review of the Australian Domestic Gas Security Mechanism*[18] (a regulatory approach already applying to elements of the upstream oil and gas industry (specifically the east coast LNG export industry) in a way that does not apply to other commodity exports) which found

> *A number of gas users have expressed concern on the amount of market power suppliers are able to exercise in the eastern gas market. The Herfindahl-Hirschman Index (HHI) is a*

[16] For example, the Australian Government in its interim response to the Productivity Commission review of the national access regime announced by the Treasurer on 17 September 2002, decided not to extend the access regime to production facilities generally. This position has been held consistently since that time and has been considered regularly since 2002, through for example the 2002 Council of Australian Governments Energy Market Review, *Towards a truly national and efficient energy market*, the Australian Government's 2012 *Energy White Paper*, the 2014 *Eastern Australian Domestic Gas Market Study*, a joint project between the Department of Industry and the Bureau of Resources and Energy Economics, the Productivity Commission's March 2015 research paper *Examining Barriers to More Efficient Gas Markets*, the Australian Government's 2015 *Energy White Paper*, the Australian Energy Market Commission's 2015-16 *East Coast Wholesale Gas Market and Pipeline Frameworks Review*, the ACCC's 2015-16 *East Coast Gas Inquiry,* the Department of Industry, Science, Energy and Resources 2019-2020 *Review of the Australian Domestic Gas Market Security Mechanism*, the Productivity Commission's 2019-2020 *Resources Sector Regulation* study report.
[17] Including gas processing plants and LNG production facilities, as noted on page 57.
[18] See review-of-the-australian-domestic-gas-security-mechanism-2019.pdf (industry.gov.au) for more information (particularly pages 25-26 and page 36).

standard measure of market concentration that is based on the market share of each participant. The HHI can range in value from 0 to 10,000. A lower value represents a less concentrated market. Typically, competition regulators consider that a HHI value below 1,500 is indicative of an unconcentrated market …

Eastern gas production more than doubled from 2014 to 2019, while the supply-side market concentration of the eastern gas market has remained relatively unchanged. For the June 2019 quarter, the eastern gas production HHI was 1,105.

and concluded

… increasing domestic gas production remains the most effective means of increasing competition, alleviating market tightness and placing downward pressure on prices.

That an expansion of the regulatory framework for the upstream oil and gas industry of this kind is even contemplated sends a disturbing signal. Such an approach would work directly against the Government's stated policy intention when announcing the consultation process and risk the very outcomes (for example, further market depth and liquidity, further investment and further participation in the market) the Wallumbilla hub design process is designed to achieve.

To ensure the market can grow and depth and liquidity can increase, more investment in gas exploration, development and supply is required, not more regulation. **APPEA recommends the Department not pursue any option but focus its attention on Consultation Focus 1 and 2.**

Questions on third-party access to gas infrastructure

43. Do you think there is currently an issue with third-party access to gas facilities other than pipelines? Would a regulatory access regime for these facilities lead to better outcomes for the gas market and support achievement of the Energy Ministers' vision?
   (a) What types of facilities should be the focus of a third-party access regime (if any)? To what extent are the issues associated with these facilities similar to or different from the issues considered in the Pipeline RIS?

44. Are there alternatives to implementing a third-party access regime for this kind of infrastructure, such as an independent body like AEMO or governments owning and/or operating infrastructure such as storage or compression?

45. In terms of an implementation roadmap, what additional work is required to consider whether access regulation should be extended to other forms of gas infrastructure? What risks exist with regards to the introduction of any regulatory regime?

APPEA notes the Issues Paper considers a range of third party access issues and other regulatory options on pages 56-60 and in questions 43-45 on page 60.

APPEA has for many years encouraged commercial negotiation (originally formalised more than two decades ago in the *APPEA Guidance for Member Companies on Third Party Access to Upstream Facilities* released in June 1999) as the mechanism for establishing access to gas infrastructure and has also noted that failure to agree on the terms and conditions, including price, does not in itself indicate the failure of commercial negotiations or of the market. This means that is no role for a regulated third party access regime to apply to upstream oil and gas infrastructure.

Companies operating in the east coast market cover the whole spectrum of exploration and production activities, usually working in joint ventures to share the high costs and high capital risks associated with these activities. Given this range of activities, companies, whether large or small, can at times be operators of upstream facilities (including LNG production facilities) and at times be seekers of access to such facilities/infrastructure. There have been a number of third party access arrangements commercially negotiated and successfully concluded in recent years.

Upstream facilities, including LNG production facilities, are designed for specific purposes, which may differ markedly from facility-to-facility, particularly with respect to, for example, the processing of liquids and the removal of contaminants. Considerable redundancy can be built into these facilities to provide for continuity of supply of gas while some processing units are shut-in for maintenance.

The existence of one facility does not prevent the establishment of another such facility, although the economics of developing a second facility may differ significantly. A new plant may be able to process gas more efficiently and cost-effectively than an existing plant. On the other hand, there may be spare capacity in an existing plant that creates the conditions for a mutually beneficial arrangement to be reached between a potential service provider and an access seeker.

Processing requirements can be complex and vary over time, even from one field, and very significant assets may be involved. Therefore, the processing of third party gas and its implications need to be carefully evaluated by both the proponent, the operator, and the joint venture participants who own the facility. Security of supply considerations often require a substantial investment in additional capacity to ensure that downtime in part of a processing operation, for example for maintenance, does not jeopardise the reliability of supply.

In considering the costs of regulating access to gas processing facilities as part of its Research Paper, *Examining Barriers to More Efficient Gas Markets*, the Productivity Commission found[19], in rejecting the need for regulated third party access or the expansion of economic regulation:

> *Third party access regulation already applies to gas transmission and distribution pipelines under the National Gas Law and some stakeholders proposed extending this arrangement to gas processing facilities.*
>
> *However, denial of access to a gas processing facility is not necessarily evidence of the exercise of market power — there can be valid commercial reasons for the owners of gas processing facilities to deny third party access. There are coordination issues and costs from sharing a gas processing facility with other parties. These can include the need for plant modifications to ensure that the facility is compatible with the particular chemical composition of a third party's gas, and loss of flexibility in operations and investments.*
>
> *Beyond this, there are a number of other issues with the proposal. Part IIIA of the Competition and Consumer Act 2010 (Cwlth), which sets out the National Access Regime, contains a number of threshold requirements for its application. These include (among others): a requirement that the declared service is of national significance; a requirement that it is uneconomical to develop another facility; and an exemption for production processes. Regulating access to gas processing services could set a precedent that results in the*

[19] See Examining Barriers to More Efficient Gas Markets - Research paper (pc.gov.au) for more information (particularly page 24 and the more detailed discussion on pages 131-133).

expanded application of third party access regulation. In its 2013 review of the National Access Regime, the Commission was particularly concerned about proposals to increase the scope of the Regime, including broadening the types of infrastructure services that could be subject to third party access.

There are also more general costs from this type of regulation, including:

- *reduced incentives for new investment by gas processing facility owners — third party access regulation can distort investment incentives if it asymmetrically expropriates above normal returns without compensating the owner for the downside risk*
- *reduced incentives for investment by third parties — third party access tends to lock in the infrastructure technology used by the incumbent*
- *regulatory error*
- *administrative and compliance costs.*

These conclusions hold true today.

APPEA has for many years encouraged commercial negotiation as the mechanism for establishing access to gas infrastructure and has also noted that failure to agree on the terms and conditions, including price, does not in itself indicate the failure of commercial negotiations or of the market. This means there is no role for a regulated third party access regime to apply to gas infrastructure, including LNG production facilities.

To reiterate the comments above, the Department should not pursue these additional regulatory options but focus its attention on Consultation Focus 1 and 2.

Questions on potential government support for infrastructure

49. Do you think that government support for infrastructure would be an appropriate means of helping achieve the objective of more liquid trading in capacity/gas?
  - *(a) Is there a risk that government support could crowd-out and displace private investment?*
  - *(b) Is there a role for the market bodies or government as independent owners or operators of infrastructure, including as an independent operator of the Wallumbilla GSH?*

In its August 2021 response to the Department's *Gas-Fired Recovery: Infrastructure and Investment Consultation*, APPEA highlighted a range of specific measures that can support investment in the oil and gas industry in Australia that were included in APPEA's 2021-22 Pre-Budget submission[20]. With the recent call for submissions to the 2022-23 Budget[21], APPEA's submission is currently under development. Those submissions are due on 28 January 2022 and a copy will be provided to the Department.

[20] That submission can be found at Australian Petroleum Production and Exploration Association - 2021-22 Pre-Budget Submissions (treasury.gov.au).
[21] See 2022-23 Pre-Budget Submissions | Treasury.gov.au for more information.

APPEA's submission to the *Gas-Fired Recovery: Infrastructure and Investment Consultation* also noted APPEA supports the intentions of the National Gas Infrastructure Plan (NGIP). Developments that can help increase liquidity and support new supply to the market are welcome and encouraged.

In addition, the *Future Gas Infrastructure Investment Framework*, released on 26 November 2021, provides an appropriate framework to consider whether there is a role for government support to enable investment in additional capacity.

As the Department assesses projects under the Investment Framework and NGIP it should ensure that the projects can be justified on their stand-alone merits and that they benefit as many market participants as possible. It should ensure that the projects are demonstrably in line with the goals of the NGIP.

Noting the appropriately demand-driven nature of the Investment Framework, the investment in additional capacity to support Wallumbilla GSH could be an early focus of the Framework. Given the Investment Framework was announced less than a month ago and is yet to be implemented, there seems little reason at this stage to consider a different or additional government support process.

CONCLUSIONS/NEXT STEPS

APPEA and its members would welcome the opportunity to meet to further discuss these and any other relevant issues. APPEA looks forward to the findings of the consultation in 2022 and to further constructive engagement with the Department as the market design focus (Consultation Focus 1) and pipeline capacity trading focus (Consultation Focus 2) proceeds.