

Attachment D – Extension of AEMO Functions and Powers - Stakeholder feedback template

Submission from Chemistry Australia on the **Second Stage feedback due October 21, 2022**

The template below has been developed to enable stakeholders to provide feedback on proposed amendments to the national gas regulatory framework (including the National Gas Law and associated Regulations and Rules) as outlined in the consultation paper *Extension of AEMO Functions and Powers to manage supply adequacy in the east coast gas market*. ESOM strongly encourages stakeholders to use this template, so that it can have due regard to the views expressed by stakeholders on each issue. Stakeholders should not feel obliged to answer each question, but rather address those issues of particular interest or concern. When responding to questions, stakeholders should make reference to the relevant draft Bill or Regulations or Rules if applicable.

Should stakeholders choose to provide additional feedback outside the template, they should reference the relevant question they are responding to.

A. Proposed initial reforms

| Number | Question | Reference to section in the draft bill/regulations/rules (if applicable) | Feedback |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Overarching functions | | | |
| [Insert question number] | | [Insert reference where applicable] | |
| 1 | Do stakeholders have any comments on the scope of AEMO's new reliability and supply adequacy functions and the related rule-making powers as outlined in the draft Bill? | | <p>Broadly, Chemistry Australia agrees with the scope. Further feedback will be provided on specifics in the Second Stage, due 21 October, 2022.</p> <p>Chemistry Australia reiterates that the East Coast Gas Crisis comprises both supply and price related market failures. Any reconfiguring of AEMO's powers should factor in and include the ability to place downward pressure on prices to ensure affordability for large industrial and other users.</p> |
| 2 | Does the definition of east coast gas system exclude anything that should come within scope of the new function? | | <p>The definition should be able to capture for inclusion:</p> <ul style="list-style-type: none"> - The role of gas aggregators or similar entities to design out duplication or overlap of information reporting - The future role of gas import terminals and related infrastructure including storage capability |

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| | | | <p>- Any new and / or emerging forms of system operation, including production, storage, transport, usage, trading whether physical or virtual, that requires system visibility by AEMO to perform its defined role.</p> |
| 3 | <p>Do stakeholders consider any additional requirements should be specified in the rules in relation to the manner in which AEMO exercises its functions?</p> | | <p>Consideration should be given to whether the introduction of LNG import terminals also introduces additional levels of market dynamic that requires attention to meet the overall objectives.</p> <p>Consideration should be given to how AEMO's powers are provided and enacted and the impact these may have to the availability and price of gas. While the ability to predict and respond to supply constraints is beneficial, if the remedy itself results in more direct competition by AEMO for limited gas which in turn challenges supply and increases price at a time when the market is already under duress, then this would be contrary to the National Gas Objective:</p> <p><i>"to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas"</i></p> |
| 4 | <p>Do stakeholders consider that AEMO should develop any specific procedures or guidelines for its new functions?</p> | | <p>Chemistry Australia recommends that procedures should be developed with users that addresses the risks sets out in item 3, to avoid unintended consequences.</p> |
| 5 | <p>Do you think a review of this regulatory package after three years is appropriate?</p> | | <p>The period of review will depend on the ability of the package to identify and self-rectify issues in a timely manner, as part of its overall function.</p> <p>le: a systemic issue / problem within the package needed to better forecast and manage a short-term volatility risk should not wait until a 3-year review to be identified and resolved, given the negative impact on users.</p> <p>The package and its operating components could, for example, identify issues after a Summer or Winter season and resolve these on an ongoing, rolling basis, as part of its design. This could be similar to the intent and operation of an ISO 9001 Quality Management System.</p> <p>If the package can demonstrate this capability, then a 3-year review may be appropriate. In any case, it should include the ability for the timely self-rectification of issues within its scope, or needing to be in its scope.</p> |
| <p>Transparency – Regarding the proposed additional information requirements set out in Table 1 of the consultation paper:</p> | | | |

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| 6 | Do the proposed additional reporting requirements provide sufficient daily and monthly information to enable AEMO to monitor and signal potential threats to east coast gas system adequacy over a sufficient forecast period? | | <p>Broadly, the additional reporting requirement should assist AEMO to meet its required objectives. There are a number of remaining information gaps that should also be required as part of the reporting obligations as set out in table 1 of the Consultation Paper and within the Bill:</p> <ul style="list-style-type: none"> - LNG facilities should separate out their required reporting volumes, as defined, in both aggregate contract volumes and aggregate spot market categories. This will assist AEMO to gain a more complete picture of system capacity and flows, and better equip AEMO with an understanding of the supply variability risk factors identified in the consultation brief. - LNG facilities should report when plants are operating at practical capacity. This will assist AEMO in gaining a more complete picture of system capacity, including the plant's capacity to contribute a response to potential market shortfalls. |
| 7 | Do stakeholders have any comments about the proposed additional information reporting and disclosure arrangements, and related transitional timeframes? | | <p>In seeking to meet the objectives of market reliability and adequacy and where variability may create supply risks, AEMO need be aware of the differences between relatively even demand and where demand is more likely to have variability that requires management.</p> <p>For example, there is comparatively stable and flat demand requirements from a range of large industrial users, particularly those using gas as a feedstock in 24 / 7 / 365 operations. Whilst some variation may exist (within known bands), the demand profile is relatively level due to the nature of the business.</p> <p>This is in contrast to other users whose consumption profile has a greater degree of inbuilt variability. This would include: seasonal demand for power generation in Summer, increasingly required from gas peaking plants given the ongoing retirement of coal-fired generation: heating in Winter; planned and unplanned maintenance of generators or other variables in addition to emergency events.</p> |
| 8 | Should there be any specific limits on who should be captured by disclosure obligations or ways to minimise compliance obligations such as thresholds, reporting party definitions, or links to other regulatory reporting requirements? | | <p>To minimise compliance reporting obligations, compliance should consider entities that have relatively stable gas demand within bands. These bands could be different at various thresholds assuming that AEMO requires greater accuracy from a very large entity compared to a smaller site.</p> <p>An entity with a nameplate capacity >10TJ/d with a forecast outlook below this should only be required to report "<10TJ/d".</p> |
| Transparency – regarding the further more granular information set out in the consultation paper (subject to further consultation in 2023): | | | |
| 9 | What are your views on: | | |

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| | a) The categories of information, and are they appropriate for real-time or hourly reporting? b) What is the optimal approach to the collection of the categories of information listed in the interests of minimising costs and ensuring efficient data transfer? | | |
| Signalling – regarding the signalling framework which aims to provide a practical but flexible approach to allow AEMO to notify market participants of threats to system reliability and supply adequacy: | | | |
| 10 | What are your views on formalising and extending AEMO’s ability to hold Gas Supply Adequacy and Reliability Conferences? | | To the extent that conferences equip AEMO to perform their intended role, extending their ability to hold GSARCs seem suitable. GSARC’s and their functions should take into account the obligations from other regulatory requirements on gas users and other parts of the system. These include Major Hazard Facility Licence obligations and similar requirements. |
| Directions Powers – regarding the initial broad powers to be provided to AEMO to take necessary action to manage the risk of gas supply shortfalls in winter 2023: | | | |
| 11 | Are there particular principles which should guide AEMO’s expanded powers of direction? | | The increased powers being proposed to equip AEMO with are in direct response to ongoing supply side market failures. The Consultation Paper sets out the facts of these issues and cites independent reports by the ACCC and AEMO in relation to the nature and extent of the supply risk and their impacts that require these additional levels of intervention to be enacted. As such, and as a matter of principle, it would be a perverse outcome, driving unintended consequences for gas users, if gas users themselves had to bear the cost of the required interventions. In market shortfall scenarios, users would already be paying suppliers a higher price for gas with fixed costs solely on the basis of the supply/demand dynamic in place at that time. Requiring users to then bear additional and cumulative cost burdens would not only be an avoidable outcome, but one in direct contravention of the National Gas Objective: <i>“to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas”</i> |

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| | | | <p>The remedy should not compound the problem being targeted:</p> <p>While the ability to predict and respond to supply constraints is beneficial, it would be a perverse outcome if the remedy itself results in more direct competition by AEMO for limited gas which in turn challenges supply and increases price at a time when the market is already under duress.</p> |
| 12 | Are there any other approaches that could be undertaken to elicit market responses ahead of directions powers? | | |
| 13 | How should AEMO work with stakeholders in giving directions? | | AEMO should consider how directions converge or diverge from current market mechanisms such as curtailment protocols, so these are not compounded. Finding a balanced, systems approach will be crucial to a functioning market. |
| 14 | Are there technical matters that should be considered in the issuing of directions powers? | | AEMO should consider the specific requirements of petrochemical plant operations, including their obligations as Major Hazard Licences and critical supply chain / sovereign manufacturing capability requirements. |
| 15 | Are there any entities that should not be subject to directions or certain types of directions? | | <p>The increased powers being proposed to equip AEMO with are in direct response to ongoing supply side market failures. The Consultation Paper sets out the facts of these issues and cites independent reports by the ACCC and AEMO in relation to the nature and extent of the supply risk and their impacts that require these additional levels of intervention to be enacted.</p> <p>As such, and as a matter of principle, it would be a perverse outcome, driving unintended consequences for gas users, if gas users themselves had to bear the cost of the required interventions. In market shortfall scenarios, users would already be paying suppliers a higher price for gas with fixed costs solely on the basis of the supply/demand dynamic in place at that time. Requiring users to then bear additional and cumulative cost burdens would not only be an avoidable outcome, but one in direct contravention of the National Gas Objective:</p> <p><i>“to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas”</i></p> |
| Cost recovery and compensation | | | |
| 16 | Do the proposed changes to the cost recovery framework enable AEMO to appropriately recover costs in | | See response to Question 15 |

| Number | Question | Reference to section in the draft bill/regulations/rules (if applicable) | Feedback |
|--------|------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | relation to its east coast gas market reliability and supply adequacy functions? | | <p>The remedy should not compound the problem being targeted, including increasing the overall cost burden on users by problems created elsewhere.</p> <p>It would be a perverse outcome if the system costs from intervening in a failed market resulted in cost imposts for the users already impacted by the supply and price factors that have triggered the interventions themselves.</p> |
| 17 | What costs should parties who must comply with directions be able to seek compensation for? (e.g. direct costs, opportunity costs) | | Notwithstanding the comments above in 16 and 17 that users should not bear costs for interventions that have not been created by users, opportunity costs must be excluded. |
| 18 | How should the costs of compensation be apportioned and recovered from the market? | | |
| 19 | Should there be financial limits on individual claims, or on claims overall within a financial year? | | |
| 20 | Is the proposed \$35m initial trading allocation appropriate? | | |
| 21 | How should the trading function be funded? | | |
| 22 | What principles, if any, should guide AEMO's trading functions? | | <p>Principles should be aligned to the National Gas Objective (NGO) with specific emphasis on consumers/users – "...for the long term interests of <u>consumers</u> of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas."</p> <p>The remedy should not compound the problem being targeted.</p> <p>Consideration should be given to how AEMO's powers are provided and enacted and the impact these may have to the availability and price of gas. While the ability to predict and respond to supply constraints is beneficial, if the remedy itself results in more direct competition by AEMO for limited gas which in turn challenges supply and increases price at a time when the market is already under duress, then this would be contrary to the National Gas Objective.</p> |

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| | | | It would be a perverse outcome if the system costs from intervening in a failed market resulted in cost imposts for the users already impacted by the supply and price factors that have triggered the interventions themselves. |

B. Proposed civil penalty provisions

Section 3 of the consultation paper sets out the proposed sections of the draft Bill or Rules that will be subject to civil penalty provisions and what level of penalty would apply. Please reference the specific sections of the draft Bill or Rules if you would like to provide feedback.

| Section or rule | Feedback on proposed tiers |
|---------------------------------------------------------------|----------------------------|
| [include section or rule] | |
| [include section or rule] | |
| [include section or rule] | |
| [include section or rule] [insert extra rows if necessary] | |

C. Feedback on proposed changes to the National Gas Law, Regulations and Rules

Attachment A of the consultation paper contains the proposed regulatory amendments to give effect to the policy intent set out in the consultation paper. Comments specific to particular sections of the draft Bill, Regulations and Rules should be provided in sections C of this template.

| Question /Section | Feedback |
|-------------------------------------------------------------|----------|
| Feedback on proposed changes to the National Gas Law | |
| [Insert section and subsection reference] | |
| [Insert section and subsection reference] | |

| Question /Section | Feedback |
|-----------------------------------------------------------------------------------------------|----------|
| [Insert section and subsection reference] [insert extra rows if necessary] | |
| Feedback on proposed changes to the National Gas Regulations | |
| [Insert regulation reference] | |
| [Insert regulation reference] | |
| [Insert regulation reference] [insert extra rows if necessary] | |
| Feedback on proposed changes to the National Gas Rules | |
| [insert rule and sub-rule reference] | |
| [insert rule and sub-rule reference] | |
| [insert rule and sub-rule reference] [insert extra rows if necessary] | |

D. Future reliability and supply adequacy reforms

Section 4 of the consultation paper outlines future additional reliability and supply adequacy reform works which will require further technical analysis, stakeholder consultation and detailed policy design. If you have comments on any of the additional future work streams, please do so in the table below.

| Number | Question | Feedback |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|----------|
| In relation to the proposed reliability and supply adequacy reforms outlined in Section 4 of the consultation paper, please provide initial feedback on the merits of these proposals, noting formal consultation will occur in 2023, when the policy design process has been further progressed. | | |
| 23 | In your opinion, are any of these proposals more or less important to address reliability and supply adequacy concerns? | |

| Number | Question | Feedback |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 24 | <p>Are there any practical issues arising from any of these proposals?</p> <ul style="list-style-type: none"> If so, please elaborate on your concerns. | |
| 25 | <p>Are there any other reliability and supply adequacy proposals that should be considered as part of this work?</p> | |

E. General feedback on timing and next steps required

Please elaborate if you would like to provide general feedback on the timing and next steps required regarding this work.

| Topic | Feedback |
|------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Impact of AEMO functions to assist with price remedy | Chemistry Australia reiterates that all remedies to restore a functioning east coast gas market must play a role in bringing meaningful downward pressure on price. It will be beneficial to understand how the proposed powers can assist with this priority objective. |
| Impact of AMEO functions, powers on users | Chemistry Australia and other stakeholders have identified risks with AEMO entering the market as a gas trader. It will be beneficial to a balanced outcome in support of market users, to work with AEMO to understand how this specific capability will improve supply and price outcomes and how to best design the mechanisms in support of this. |
| Time-frames | Providing visibility and timing of reforms and their components will be valuable for large industrial and other users who are in the process of plant turnaround investments needing aligned gas contracts. |