

Attachment B

Stakeholder feedback template

Submission from Australian Pipelines and Gas Association

The template below has been developed to enable stakeholders to provide feedback on the draft amendments to the NGL, Regulations and NGR. ESOM strongly encourages stakeholders to use this template, so that it can have due regard to the views expressed by stakeholders on each issue.

1. National Gas Law Amendments

Section	Feedback
91DB Information for the gas statement of opportunities	Subsection (4) allows a GSOO reporting entity to not disclose information to AEMO only if that information is the subject of legal professional privilege or if it is incriminating. This is too narrow. AEMO is not a regulator and the GSOO Survey is not a regulatory information request. Investment in Australia's gas industry is highly competitive and a company's forecasts, early plans and project information are very sensitive. There must be some protection for a GSOO reporting entity to not disclose information that is commercial or competitive in nature when responding to a GSOO survey. In the case of listed entities, those entities should be able to rely on the usual carve out under the ASX Listing Rules governing when information must be released to the market.
Division 4, Part 1, Chapter 2 (cl.7-22) Regulatory information notices, general regulatory information orders and price information orders	This section is not very specific and it is not clear whether businesses will lose any protections under the law when the functions of the AER are extended to include gas price reporting. The protections currently afforded to industry when the ACCC collects gas price information (e.g., the ACCC can't release confidential information) should remain unchanged under the new arrangements.
[Insert section and subsection reference]	
[Insert section and subsection reference] [insert extra rows if necessary]	

2. National Gas Regulations Amendments

Section	Feedback
[Insert regulation reference]	

Section	Feedback
[Insert regulation reference] [insert extra rows if necessary]	

3. National Gas Rules Amendments

Amendment	Feedback
Part 15B Procedures	
[insert rule and sub-rule reference]	
[insert rule and sub-rule reference] [insert extra rows if necessary]	
Part 15D Gas statement of opportunities	
135 KE Obligation to participate in a GSOO survey	Clause (3) sets out that a GSOO reporting entity must provide AEMO information in relation to the gas industry that the entity has in its possession or control. This is far too broad and uncertain, and amounts to a substantial compliance burden. As stated, investment in Australia's gas industry is highly competitive and a company's forecasts, early plans and project information are very sensitive. Many GSOO reporting entities will be in possession of commercially sensitive information regarding potential investments that have not yet been finalised or announced. Entities should not be forced to disclose this information through the GSOO Survey.
135 KH Use and disclosure of GSOO survey information [insert extra rows if necessary]	Clause (2) allows AEMO to disclose protected information provided the protected information is aggregated or disguised in some way. The East Coast gas market is not large by global standards, with a relatively low number of producers, transporters and users. It is difficult to envisage how AEMO will adequately shield some information. In the cases of gas transmission, compression and storage infrastructure, the East Coast gas grid is well understood and has, ultimately, a small number of significant pipelines. Any predictions or forecasts that AEMO publishes through the GSOO are likely to be attributable to identifiable assets and this could give rise to significant loss and/or damage to the entities concerned. There must be stronger protection against this occurring.
Part 17 Miscellaneous provisions relating to the AER	
[insert rule and sub-rule reference]	
[insert rule and sub-rule reference] [insert extra rows if necessary]	
Part 18 Natural Gas Services Bulletin Board	

Amendment	Feedback
<p>152 Registration by facility developers or for facility developer groups</p>	<p>Clause 2(a) requires a facility development project be registered within 20 days of meeting the criteria in the GBB procedures. As yet, stakeholders have no information on what these criteria will be. APGA is concerned that the criteria may set out requirements that dictate the timing of public announcements outside of a developer's normal timetable. At a minimum, the introduction of obligations associated with new projects may influence the timing of public announcements, which may be detrimental to the entity, the market and other stakeholders. It is essential that the criteria in the GBB procedures setting out when a development project must register allows a project proponent to choose the timing of any public announcements relating to the project.</p> <p>To ensure that pipeline developers have control over the timing of project announcements, APGA proposes that the criteria for reporting proposed projects on the GBB is based on similar criteria to that used by AEMO to update their monthly NEM Generation Information reports on the AEMO [Electricity] Generation Information Page.</p> <p>In the Background Information tab of the NEM Generation Information reports, new production and transmission projects fall into one of six 'Commitment Status' categories (two of "committed" and four "proposed"). The lowest category of "proposed" project is one which has been "publicly announced". The definition states: "These projects have been announced publicly, but do not yet have any finance arrangements in place. Costs and capabilities of these projects are developed using recently-completed projects and projections of cost components such as raw material supply and labour".</p> <p>Using this standard as the base criterion for which proposed projects (and specific information) should be reported on the GBB would ensure that pipeline developers retain control over the timing of public announcements. This approach would also ensure that ASX listed pipeline companies don't have GBB reporting requirements that conflict with their ASX reporting requirements.</p> <p>In line with the approach taken above by AEMO for the NEM Information Reports, APGA proposes that the basic criterion for a requirement to report "proposed" project information on the GBB is that it must have been publicly announced.</p>
<p>190F Obligation to report [insert extra rows if necessary]</p>	<p>Clause 1 sets out the information to be reported for a facility development project. APGA is happy with the list of information categories to be reported, but we note that although this information is very high level and some is likely to be included in initial public announcements of projects, other information such as the facility's proposed nameplate rating may not. Explicit recognition of the fact that technical information for proposed developments, such as nameplate capacity, is based on estimates and therefore subject to change is required. Pipeline developers will need to provide updates to that reported information as the development progresses.</p> <p>For the requirement to report "stage of development, applying an assessment framework determined by AEMO", we think the ESOO 'Commitment Status' categories used by AEMO to update the monthly NEM Generation Information reports on the AEMO [Electricity] Generation Information Page should be adapted for this purpose. It is better to use these already well-established criteria than to seek to develop an entirely new set of criteria. This is subject to the caveat that the basic criterion for a requirement to report "proposed" project information on the GBB is that it must have been publicly announced.</p> <p>Although APGA agrees that a 10TJ nameplate capacity is an appropriate threshold for determining which projects should be reported for publication on the GBB, we don't think it is a practical benchmark for reporting "proposed" projects. This is because capacity information is unlikely to have been firmed up at the time of the initial public announcement.</p>
<p>Part 18A Compression and storage terms and prices</p>	
<p>[insert rule and sub-rule reference]</p>	
<p>[insert rule and sub-rule reference] [insert extra rows if necessary]</p>	

4. Policy clarifications

Sections 6.1.1, 7.2.1 and 8.6 of the Consultation Paper set out a number of policy clarifications that have been made since the DRIS was published. If you would like to provide feedback on any of these clarifications, please do so in the table below.

Consultation paper section	Amendment	Issue	Feedback
6.1.1	Rule 143A(2A).	Northern Territory offshore reserves and resources	
7.2.1	Rule 188A(1).	Reporting times for LNG export facilities	
8.6	Rules 182(1), 183(1) and 185(1)	Facility operators reporting of forecast nominations	

5. Transitional arrangements

Section 10 of the Consultation Paper sets out the proposed transitional arrangements. If you would like to provide feedback on any of these transitional arrangements, please do so in the table below.

Transitional measure	Feedback

6. Incidental amendments to Parts 15B and Part 18 of the NGR

Section 11 of the Consultation Paper sets out a number of incidental rule amendments that have been identified for Part 15B and Part 18 of the NGR. If you would like to provide feedback on any of these incidental amendments, please do so in the table below.

Amendment	Feedback
[insert rule and sub-rule reference]	
[insert rule and sub-rule reference] [insert extra rows if necessary]	

7. Proposed civil penalty provisions

Section 12 of the Consultation Paper sets out the proposed tiers for the list provisions in the Law and Rules that are proposed to be classified as civil penalty provisions. These are based on the proposed classification of tiers for the reform of the Australian Energy Regulator Civil Penalty Regime, which was released for public consultation in July 2020. Energy Ministers' approval of the final classification of tiers, Decision Matrix and Concepts Table is anticipated in late 2020 or early 2021. If you would like to provide feedback on the proposed tiers, please do so in the table below.

Section or rule	Feedback on proposed tiers
[include section or rule]	
[include section or rule]	
[include section or rule]	

8. Potential duplication reduction in the National Gas Law

While not part of the Draft Bill or within scope of the transparency regulatory impact statement, the table in section 13 of the Consultation Paper identifies a number of areas in the Law that would benefit from the removal of some of the duplication that has emerged over time. If you would like to provide feedback on any of the proposed changes, please do so in the table below.

Item number	Feedback on potential changes