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Comments on Domestic Gas Reservation Scheme: Exposure draft legislation

Australian Energy Producers supports a well-designed, prospective gas reservation scheme linked to new supply. These design elements are essential to strengthening competition, encouraging long-term investment and contracting, and ensuring reliable and affordable gas for Australian industries and households.

Domestic gas prices are materially below prices received for Australian LNG exports. Analysis by EnergyQuest shows that, over the 12 months to June 2026, the average published realised east-coast domestic price was \$10.07/GJ, 36% lower than the average published realised LNG price. The Australian Competition and Consumer Commission has found that existing contracts between retailers and commercial and industrial users are predominantly fixed-price, so they are not affected by changes in global energy prices.¹

Australian gas markets are well supplied until at least the end of the decade. The Australian Energy Market Operator has continued to push forecast shortfalls further into the future, reflecting increased supply capability and moderating demand.² Domestic-focused producers supply approximately two-thirds of the east-coast market and play a key role in meeting east coast demand efficiently – especially for winter peak-day deliverability in southern states. Queensland LNG producers have unlocked gas that would otherwise not have been economic solely for domestic use.³ The core policy problem is regulatory uncertainty and insufficient incentives for additional investment and production – not high prices or an imminent shortage of molecules.

Accelerating new gas supply is the only sustainable solution to maintaining long-term affordability and reliability. The Gas Market Review concluded that “ensuring Australia’s domestic market is adequately supplied at lower prices will require new supply, ongoing investment, and a more efficient, streamlined regulatory framework supported by complementary measures.”⁴ Without continued investment in new supply, Australia risks reduced competition, higher prices and less reliable gas supply for households and businesses. The Australian Government should work with states to bring new supply to market through faster and more certain approvals, clearer offshore consultation requirements, support for exploration, timely native title decisions and stable, internationally competitive tax settings.

¹ EnergyQuest, *Australian gas prices vs Australian LNG prices*, report prepared for Australian Energy Producers, September 2026.

² Australian Energy Market Operator, [2026 Gas Statement of Opportunities](#), 26 March 2026;

³ See Kroll Economics, [An Assessment of East Coast Gas Adequacy and Policy Design](#), 10 June 2010, pp. 4, 88; Department of Climate Change, Energy, the Environment and Water and Department of Industry, Science and Resources, [Gas Market Review Report](#), 22 December 2025, pp. 7, 37f.

⁴ *ibid*, p. 5.

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The exposure draft legislation improves on the draft design framework in some important respects. AEP acknowledges the Australian Government's responsiveness to industry feedback by calibrating the 20% domestic supply obligation, removing the minimum liquidity requirement and "release valve" mechanism, and ensuring that variations to recognise existing contracts, infrastructure constraints and existing reservation arrangements, no longer accrue as compounding liabilities.

Notwithstanding these improvements, there remain critical flaws that must be addressed for the reservation scheme to work. These include: A default demand buffer, a forced-sale requirement, uncapped accrual of deferred quantities, uncertainty regarding the national scheme's interaction with state arrangements, a narrow and time-limited infrastructure adjustment, excessive ministerial discretion, uncertainty regarding the setting of baselines to determine additional gas, and a blunt and disproportionate compliance regime. Left unaddressed, these shortcomings risk crowding out domestic-focused producers, reducing competition and diversity of supply, discouraging investment in future gas supply, undermining Australia's reputation as a reliable trade and investment partner, and inducing the very supply shortfalls and higher prices that the scheme is intended to avoid.

Australian Energy Producers proposes the amendments set out in the table below to improve the scheme's operation, avoid adverse unintended consequences and strengthen the durability of the domestic gas reservation scheme. Given the complexity and significance of these reforms, AEP urges the government to continue consulting with industry on the exposure draft legislation before it is introduced into Parliament.

Summary of proposed amendments

- 1. Replace the effective forced-sale requirement with a genuine offer obligation (s20).** Allow domestic supply obligation (DSO) gas that has been genuinely offered to domestic users at competitive prices and on commercial terms, but not needed by the market, to be exported.
- 2. Calibrate domestic supply obligations to deliver a balanced market without oversupply (s24).** The percentage buffer should be removed. The goal should be a balanced market that preserves investment signals for future gas supply, and ensures the upstream industry remains competitive with a diversity of suppliers.
- 3. Prevent deferred supply obligations and banked surplus supply from creating future oversupply or distorting the market (ss21 and 24).** Require the Australian Energy Regulator to account for deferred obligations and banked surplus supply across the market when calibrating future DSOs. After three years, automatically convert deferred obligations into deemed supply where gas has been genuinely offered on competitive commercial terms but not purchased, and expire any unused banked surplus supply.
- 4. Ensure Western Australia's existing reservation framework is not undermined or overridden by the national scheme (ss8, 9, 23 and 25).** Clearly recognise the state domestic gas policy as the primary and ongoing domestic gas reservation policy in Western Australia, including for new and expanded projects, and avoid unnecessary duplication of Commonwealth and state regulation and compliance.
- 5. Recognise genuine and ongoing infrastructure constraints (ss25 and 44).** Grant DSO adjustments for any year where physical, capacity or other material infrastructure constraints

prevent domestic supply, without requiring LNG exporters to unilaterally overcome those constraints or undertake uneconomic investment.

6. **Narrow and clarify ministerial discretion (ss23, 24(7), 25–28).** Bind the Minister for Resources and Minister for Energy to the same statutory criteria, keep the Industry Minister's role consultative only, fix timeframes from s29 advice (deemed approval; no prejudice if applied on time), require published reasons, and allow merits review that can substitute the decision (s99).
7. **Provide certainty on production baselines and additional gas (ss9 and 18 of the Domestic Gas Reservation Bill; Gas Market Code ss63-68).** Ensure genuinely new and expanded supply is recognised as additional gas under a clear and durable baseline method, established before significant investment decisions are made.
8. **Establish a proportionate, graduated and risk-based compliance regime (ss14, 16, 27, 53, 82, 95, 97).** Distinguish between deliberate or repeated non-compliance from inadvertent or technical breaches, limit executive and licence penalties and cancellations to serious misconduct, provide reasonable rectification and transitional protections, and recognise voluntary compliance efforts.

Table 1: Amendments proposed by Australian Energy Producers to domestic gas reservation scheme exposure draft legislation

Provision	Adverse unintended consequences	Proposed amendments	How this solves the problem
1. Forced sale with limited flexibility Minimum total quantity for DSO (s 17 of the Domestic Gas Reservation Bill): For each market, the licence holder must supply gas equal to 20% (or the varied percentage) of the energy in its LNG exports from that market, minus any adjustment quantities determined by the minister (s25). Two compliance pathways (s 16(1)): Either supply 100% of the minimum total quantity, or use the flexible route in s20. The flexible route requires DSO supplies of at least 90% and meeting “flexibility requirements” for the remaining portion, up to 10%. Flexibility requirements (s58 of the Gas Market Code, as inserted by the Domestic Gas Reservation Consequential Amendments Bill; s20(2) of the Domestic Gas Reservation Bill): • Best endeavours to sell uncontracted gas: publish availability, issue expressions of interest on domestically competitive terms, negotiate in good faith, and don't refuse a reasonable offer. • The buyer didn't exercise a call option. • Contracted gas couldn't be delivered because of unforeseeable events outside the licence holder's control.	Requiring supply, rather than a genuine offer on competitive terms, would force licence holders to push gas into the market regardless of demand. In a balanced or oversupplied market this would suppress prices, displace and destroy domestic-focused producers, and compel exporters to choose between uneconomic options. These outcomes would in turn undermine competitive and efficient gas supply, discourage ongoing investment, and damage Australia's reputation as a reliable international supplier and trusted trade and investment partner. Forcing exporters to offset deferred quantities after 3-years will only compound the problem in a balanced or oversupplied market. Relief mechanisms for force majeure, demand shortfalls and other uncontrollable events are narrow and do not adequately address circumstances where non-compliance arises through no fault of the exporter and cannot be made up in an oversupplied market.	Amend s20 of the Domestic Gas Reservation Bill so that: - any/all DSO volumes that are diligently marketed and genuinely offered on competitive commercial terms, but not taken up by domestic users, should be allowed to be exported efficiently and without pre-approval (noting proposed treatment of accruals proposed in #3 below). - the Australian Energy Regulator is required to develop guidelines (in consultation with stakeholders) setting out its compliance approach.	Ensures gas that is genuinely and competitively offered to domestic users in good faith – but not required – can reach export markets rather than being sold at the expense of domestic-only producers or acquitted via uneconomic means. This approach is consistent with the flexible, practicable model that has underpinned Western Australia's successful domestic gas policy.

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2. Calibration of domestic supply obligations to demand Under s24 of the Domestic Gas Reservation Bill (and the method the AER determines under s59 of the Gas Market Code), the AER will: - Forecast aggregate domestic demand for each market (effectively east coast/NT and WA) for the regulatory period (year beginning 1 Jan 2028 and each following year). - Subtract forecast supply from non-license holders from forecast aggregate demand. - Add a percentage buffer of aggregate domestic demand to that figure to calculate the “targeted aggregate supply”. - The default percentage buffer is 10%, but the minister may determine a lower percentage by legislative instrument.	A default percentage buffer risks: - inducing an unsustainable and damaging oversupply - artificially pushing prices below the marginal cost of new supply - crowding out domestic-focused producers - reducing competition and diversity of supply - weakening incentives for the additional investment and production that the scheme is intended to support, and which is essential to competitive prices in the long run. The market impacts of the percentage buffer are exacerbated by the forced sale obligation.	Amend the Domestic Gas Reservation Bill to: - remove the percentage buffer; and - recognise that a downward calibration of an individual license holder's obligations should not result in an increase to other license holders' obligations.	Removing a percentage buffer would: - reduce the risk of the domestic gas reservation scheme inducing an unsustainable structural oversupply - better align reserved volumes with genuine demand - preserve the price signals needed to sustain investment and supply by both exporters and domestic-focused producers - be more conducive to competition and competitive prices in the long run. - recognise that AEMO already takes a conservative approach in forecasting demand and supply conditions.

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3. Deferral (accrual) of domestic supply obligations and banking of surplus supply If exporters exercise the ability to borrow up to 10% of their individual DSOs in a given period, this obligation accrues and must be supplied within the following 3 years (ss 20, 21, 31).	The move away from the draft design framework approach of accruing all DSO variations avoids the compounding of obligations to vast levels. However, the deferral (accrual) of borrowed volumes may still see material obligations at the end of the compliance period, without a clear means of achieving compliance. Further, the offsetting of deferred flexibility volumes after 3 years – and the oversupply it will trigger – will discourage buyers from contracting longer than 3 years. This is at odds with a key objective of the domestic gas reservation scheme to promote a return to long-term contracting.	Amend s21 of the Domestic Gas Reservation Bill so that: - The Australian Energy Regulator is required to take into account the accumulated deferred supply obligations and banked surplus supply across the market when determining the demand calibration; and - Any deferred supply obligations that are not offset in the 3 years subsequent to their accrual, notwithstanding diligent marketing and genuine offers at competitive prices and commercial terms, automatically be “deemed supply” under s19 of Domestic Gas Reservation Bill. Similarly, any banked surplus supply above a licence holder’s DSO that are not drawn down in the 3 years subsequent to being made, should automatically roll off.	Requiring the AER to account for the accumulated deferred supply obligations and banked surplus supply when calibrating future demand ensures that unresolved volumes are reflected in future DSOs. Managing deferred supply obligations and banked surplus supply with a predictable roll-off after 3 years prevents the compounding of accruals to unsustainable and unworkable levels, consistent with the bill not requiring the accrual of DSO variations. It also provides a clear and achievable path to compliance in every scenario.
4. Clarifying interaction of national scheme with Western Australia and other jurisdictions while reducing regulatory duplication The exposure draft effectively recognises that the Western Australian market is separate from the eastern market, by allowing DSOs to be set based on individual markets. Under ss25(1)(b) and 25(3)(d) of the Domestic Gas Reservation Bill, exporters may request that the minister determine an adjustment	There appears to be more practical recognition that Western Australia’s market is separate, but the national scheme still overlays existing gas reservation arrangements under the Western Australian domestic gas policy. Clarity is still required in relation to: The exercise of significant ministerial discretion in relation to the treatment of Western Australian exporters and the mechanism for determining adjustment quantities (variations).	Amend sections 8, 9, 23(6) and 25 of the Domestic Gas Reservation Bill of the Domestic Gas Reservation Bill to clarify that the intent of the Act is to: - Not replace, supersede or override existing domestic gas reservation arrangements that apply to domestic gas markets. - Ensure that for the purposes of obtaining adjusted quantities to recognise existing domestic gas reservation arrangements,	These proposed changes: - preserve Western Australia’s domestic gas policy - provide the certainty required for state-based investment decisions - ensure existing agreements entered into between producers and the state government, which give effect to the WA domestic gas policy, are protected - remove doubt that the Gas Market Code or the jurisdiction of the Australian Energy

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quantity, reducing their obligations, to recognise “existing domestic gas reservation arrangements” – but only arrangements in force on or before 22 December 2025 (s9), and only if applied for upfront with the initial licence application (s44(3)) and determined by 31 December 2027. The minister can effectively lower the Western Australian obligation, and in doing so may take account of whether the WA domestic gas policy is likely to address any market imbalance (or shortfall). Any such decision for the first year of the scheme would need to be made by 1 August 2027.	- Uncertainty regarding the definition of existing domestic gas reservation “arrangements” (defined in s9) and the potential for including new projects or project extensions. - If and how the Gas Market Code will be extended to Western Australia. - The demand-calibration method and reliance on the Western Australian Gas Statement of Opportunities (see s59(3) of the Gas Market Code, as inserted by the Consequential Amendments Bill) – noting that the WA statement is not designed for this purpose and there is no requirement in the exposure draft legislation that the AER must consult the WA State Government on potential market imbalances. Section 65(g) only permits, and does not require, consultation with state entities. - The potential compliance burden of meeting both state and Commonwealth administrative requirements (noting that the Western Australian domestic gas policy already imposes compliance and enforcement mechanisms on project proponents under bilateral contracts with the WA State Government). There is no recognition of Australian Market Supply Conditions attached to certain Queensland tenements.	existing arrangements include future changes and extensions, short of the complete repeal of those arrangements. c. Ensure that agreements entered into between governments and producers, which implement an existing reservation arrangement, are considered part of an existing arrangement. d. Ensure that new and expanded projects that would ordinarily be captured under the WA domestic gas policy will be regulated under the WA domestic gas policy in the same way as existing projects. e. not to extend the Gas Market Code or the jurisdiction of the Australian Energy Regulator to Western Australia, when the minister sets a domestic supply obligation for the Western Australian market at zero (s23(6)). Furthermore, the bill should ensure that: f. the Commonwealth consult and give due regard to the views and preferences of the Western Australian Government in evaluating potential demand/supply imbalances and making determinations relating to demand calibration. g. compliance and reporting requirements are minimised, including where such obligations would ordinarily be regulated under the WA domestic gas policy and	Regulator will not apply to Western Australia - ensures that the assessments and advice of the Australian Energy Regulator demand calibration method in Western Australia is fit-for-purpose, properly informed and endorsed by the WA Government - avoids inconsistent or duplicative regulation between the WA domestic gas policy and the national scheme.

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		when a domestic supply obligation for the Western Australian market is set to zero.	
5. Recognising infrastructure constraints, including NT-based LNG exporters who are not part of the east-coast gas market owing to technical constraints in gas supply Section 25(1)(c) of the Domestic Gas Reservation Bill allows the minister to determine an adjustment quantity where infrastructure constraints limit a licence holder's ability to make domestic supply obligation (DSO) supplies. Further, under s25(5), the minister may only make an adjustment where satisfied that the licence holder is "actively taking steps to improve its ability to make DSO supplies." There is also a timing restriction on seeking an infrastructure adjustment. Under s25(3)(d), the minister can only make a DSO adjustment determination if the licence holder's export licence application included a request for such a determination under s44(3), the determination is made by 31 December 2027 – subject only to the narrow exception in s25(3)(e), where a percentage moves from 0% to above 0%.	The "active steps" requirement could require an LNG exporter to take steps to address an infrastructure constraint even where the constraint may be outside its reasonable control, or where addressing it may require significant or uneconomic investment. Section 44(3) effectively requires an exporter to anticipate and request an infrastructure adjustment as part of its initial export licence application, rather than simply applying when an infrastructure constraint subsequently arises. Further, the current exemption framework only applies where an export facility lacks a physical connection to a network of interconnected pipelines supplying a domestic gas market. This approach fails to recognise circumstances where a physical connection exists but practical barriers render domestic gas supply unfeasible. These barriers include insufficient pipeline capacity, incompatible operating pressures or gas specifications, or other infrastructure limitations, which either cannot be resolved technically or physically, or cannot be resolved without the LNG exporter (or a third party that the LNG exporter doesn't control) having to incur unreasonable levels of costs, which other LNG exports are not required to incur.	Remove s25(5), which requires that the minister be satisfied that the licence holder is "actively taking steps to improve its ability to make DSO supplies" before an infrastructure adjustment can be made. Amend s25(3)(d) and the associated s44(3) requirement so that a licence holder is not required to request an infrastructure adjustment in its initial export licence application by 31 December 2027. Instead, the bill should allow a licence holder to apply for an infrastructure adjustment at any time when an infrastructure constraint arises or becomes relevant to its ability to meet the DSO. Exemption provisions should expressly recognise material infrastructure constraints as a valid basis for exemption and that infrastructure constraints may pre-exist or may arise in the future. Facilities should not be required to satisfy domestic supply obligations where they are unable to do so because of demonstrable infrastructure limitations. Such exemptions should remain available unless and until the relevant constraints have been resolved.	Recognises genuine physical limits without compelling uneconomic capital expenditure. Allows the scheme to respond to constraints that emerge after licences are granted. Gives due regard to the material technical constraints that prevent LNG exporters in Darwin from gaining access to east-coast gas markets.

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	The existence of a physical connection alone should not be treated as evidence that a facility is capable of supplying the domestic market. The current drafting risks imposing obligations on facilities that they cannot comply with due to factors beyond their control.		
6. Narrowing and clarifying ministerial discretion The exposure draft gives the minister wide discretion – circumscribed only by broad criteria and “reasonableness” tests – over the decisions that set an exporter’s domestic supply obligation and export rights: • a varied DSO percentage for a domestic market, between 0% and 20% (s23) • a demand calibration percentage that is less than 10% and greater than or equal to 0% that the minister considers to be reasonable (s24(7)) • DSO adjustment quantities for existing contracts, existing reservation arrangements and infrastructure constraints (s25) • extended period determinations (s26) • variation or revocation of a s25 or s26 determination if information was false, misleading or incomplete, or if the circumstances that underpinned specified findings have “materially changed” (s28).	The framework relies heavily on ministerial discretion in areas that are fundamental to commercial certainty and long-term investment. Decisions affecting domestic supply and export rights involve multiple ministers and are not subject to clear, objective or time-bound criteria. An investor could not confidently quantify the regulatory risk on the current draft. The Minister for Resources is subject to some statutory criteria (for example, ss25(4)-(5) and 26(5)(a)), but the Energy Minister need only be “satisfied” that a decision should be made (ss23(3)(b), 24(8)(a), 25(3)(a), 26(5)(b) and 28(2)(a)) and the Industry Minister need only be consulted, with no equivalent criteria or timeframes for either. Decisions are also exposed to missed cut-off dates: If a determination has not been made by 1 August (s23(3)(e)) or by 31 December 2027 (ss25(3)(d)(ii) and 26(5)(e)), the Minister can no longer make it and the exporter bears the consequence through no fault of its own. Merits review is currently available for s25(1) determinations but not for decisions under ss23, 24(7), 26 or 28 (s99(1)).	Where ministerial discretion remains necessary, the legislation should: - Bind ministerial decisions to prescribed criteria. For DSO settings, demand calibration and other significant regulatory determinations, the legislation should - specify clear and objective criteria that must be satisfied - require decisions to be reasonable and proportionate - require decision-making ministers to take specified matters into account, rather than leaving some ministers effectively unfettered. These criteria should apply to decisions under s23 (varied DSO percentage), s24(7) (demand calibration percentage), s25 (DSO adjustment determination), s26 (extended period determination) and s28 (variation or revocation of those determinations). - Clarify the role of ministers. The Energy Minister’s current role – being “satisfied that the decision should be made” – without the same statutory criteria as the	These proposed changes would: • give exporters and investors predictable, enforceable timeframes for the decisions that set their domestic supply obligation and export rights, so that reservation decisions cannot be stalled by inter-departmental or intergovernmental processes • protect exporters from losing an adjustment or determination because a statutory cut-off passes while the minister has yet to decide • apply consistent, objective criteria to every decision-maker, including the Energy Minister, rather than leaving some decisions effectively unfettered • improve transparency and accountability through published reasons for all determinations, and give exporters recourse to merits review where a determination directly affects their obligations.

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In each case, the Energy Minister must also be satisfied that the decision should be made, and the Industry Minister consulted. Some decisions have fixed cut-off dates, but have a decision-making timeframe. While export licences must run for 20 to 50 regulated periods (s45(4)), the minister may suspend or cancel an export licence if the minister believes on reasonable grounds that the licence holder has failed to comply, failed to pay any required levies, or provided false or misleading information (s53).	Further, decisions should not be capable of being delayed through interdepartmental or intergovernmental processes. There is a risk that existing approval delays could effectively be replicated within the reservation framework.	primary decision-maker – should not operate as an unstructured veto. Any approval or veto power should either: i. operate as a formal concurrence mechanism; or ii. be subject to the same prescribed criteria as the primary decision. The Industry Minister should remain a consultation-only party and should not become a third decision-maker. c. Fix timeframes and the consequences of delay. The Bill should: i. impose a defined decision-making timeframe (for example, 28 days from receipt of the Regulator's advice under s29) for decisions under s23 (varied DSO percentage), s24(7) (demand calibration percentage), s25 (DSO adjustment determination), s26 (extended period determination) and s28 (variation or revocation of determinations); ii. provide that a decision on an application (including a request for an adjustment under s25) that is not made within that timeframe is taken to be an approval; iii. provide that a missed statutory cut-off does not prejudice a licence holder that applied in time (e.g., by	

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		allowing the decision to be made after the cut-off date). d. Require published reasons. A statement of reasons should be published for every such decision. Sections 25(6) and 26(7) already require this; ss23, 24(7) and 28 do not. e. Amend s26 to clarify that the minister may make an extended period determination for a license holder in any subsequent regulated period following commencement of the scheme. f. Expand and strengthen merits review. Merits review should cover licence-specific decisions that materially affect export operations, compliance obligations and commercial interests, and other significant determinations affecting domestic supply obligations and export rights. Reviews should be effective, including giving power for the Administrative Review Tribunal to substitute a decision, rather than only affirm or remit as currently required by s99(3). g. Permit a licence term shorter than 20 years when requested by an applicant.	
7. Setting of domestic production baselines to determine “additional gas” A DSO supply must be the licence holder’s “own gas” or “additional gas” (s18 of the Domestic	A higher baseline would mean less domestically produced gas qualifies as “additional gas” and could therefore reduce the volume of incremental domestic gas that exporters can purchase to satisfy their DSO. This in turn could	Provide certainty on production baselines and “additional gas,” by: a. requiring the Australian Energy Regulator to consult formally on the baseline and additionality method and to publish the	Getting the setting of production baselines right is crucial to domestic-focused producers, who supply approximately two-thirds of the east-coast market and play a key role in meeting east

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Gas Reservation Bill). “Additional gas” is defined in s9 by reference to the Gas Market Code made under s53WA of the Competition and Consumer Act 2010 (inserted by Schedule 1 of the Consequential Amendments Bill). Under the amended Gas Market Code, gas produced above an AER-determined gas production baseline is additional gas (ss63 and 67), and the AER may also approve other quantities as additional gas (s68). Neither the bill nor the code prescribes how a baseline is calculated: the AER must determine baselines in accordance with an instrument it makes under s63(10) of the code. If a licence holder acquires domestic gas that is not additional gas (other than under an existing contract), the purchase does not reduce its DSO; instead, its DSO increases by the volume acquired (s22). Section 66 of the Bill allows the AER to make guidelines.	weaken the demand signal for incremental domestic production and, depending on how the baseline is set and updated, adversely affect investment incentives.	method and any determinations. This could build on the AER's existing guideline-making function under s66 of the Bill, the instrument it must make under s63(10) of the Gas Market Code, and its guidelines on additional gas approvals under s71 of the Code. b. Requiring the AER recognise the critical importance of appropriate production baselines and a clear definition of “additional gas” for domestic-only producers.	coast demand efficiently – especially for winter peak-day deliverability in southern states. An onerous or rigid test for “additional supply” will undermine the investment case for domestic-only productions and act as a handbrake on new domestic supply. It would strip offtake from producers who have no export alternative, and freeze the capital needed to maintain production in existing domestic fields. That outcome would be the opposite of the objectives in section 3 of the bill: Energy security and stable prices for Australian businesses and consumers. Requiring the regulator to undertake a robust, deliberative and thorough process for setting baselines, informed by close consultation with industry, would: • give producers and investors certainty, before significant investment decisions are made, that genuinely new supply will count as additional gas • ensure the baseline and additionality method – which the bill and the Gas Market Code leave to an AER instrument – is developed with industry input and published, so that it cannot be set or updated in ways that undermine investment • preserve the demand signal for incremental domestic production.

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8. Penalties and license cancellation Section 82 of the bill establishes a substantial civil penalty regime. As <u>Mallesons</u> explains: “For core obligations – including exporting without a licence, failing to meet the DSO and anti-avoidance, the maximum penalty for a body corporate is the greatest of 50,000 penalty units (\$18.2 million), three times the benefit derived or detriment avoided, or 10% of annual turnover, capped at 2.5 million penalty units (\$910 million). Executive officer liability may also arise.”	The maximum penalties are exceptionally high, particularly given: • DSO compliance depends on forecasts, complex calculations and methods yet to be settled through subordinate instruments • the bill does not expressly distinguish between deliberate avoidance of a DSO obligation and a breach arising from a good-faith or technically driven shortfall.	Amend the bill to ensure that the penalty regime: a. distinguishes deliberate and systemic non-compliance from inadvertent or minor breaches; b. ensures penalties are proportionate to the severity of the breach, reserving the highest turnover-based penalties for deliberate avoidance and unlicensed export conduct; c. confines executive officer liability to the most serious contraventions and not extend to administrative, reporting and information-provision obligations; d. limits the use of licence suspension and cancellation powers to serious, deliberate or repeated misconduct and requiring objective statutory criteria, proportionality assessments and consideration of factors outside a licence holder's control; e. allows reasonable time for licence-holders to rectify any inadvertent or unavoidable breaches; f. recognises timely and voluntary engagement with the regulator to maintain compliance and seek assurance; g. contains transitional protections during the initial implementation period, including an educative compliance approach, limits on licence suspension and cancellation, and mechanisms to address liabilities arising	Addresses the bill's failure to distinguish between technical, inadvertent and deliberate conduct within any given contravention. As written, a licence holder facing a good-faith calibration-driven shortfall is exposed to the same maximum penalty, the same personal liability for executives, and the same suspension or cancellation risk, as one engaged in deliberate avoidance. Tying regulatory actions and penalties to objective criteria – seriousness, intent, repetition and causes within the licence holder's control, would reflect standard regulatory design principles and provide certainty to entities acting in good faith.

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		from forecasting or calibration errors rather than licence holder conduct.	