Justice and Equity Centre

Proposed Extension of AEMO's East Coast Gas System Reliability and Supply Adequacy Function

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About the Justice and Equity Centre

The Justice and Equity Centre is a leading, independent law and policy centre. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we work with people and communities who are marginalised and facing disadvantage.

The Centre tackles injustice and inequality through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

Energy and Water Justice

Our Energy and Water Justice work improves regulation and policy so all people can access the sustainable, dependable and affordable energy and water they need. We ensure consumer protections improve equity and limit disadvantage and support communities to play a meaningful role in decision-making. We help to accelerate a transition away from fossil fuels that also improves outcomes for people. We work collaboratively with community and consumer groups across the country, and our work receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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The Justice and Equity Centre office is located on the land of the Gadigal of the Eora Nation.

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1. Overview

The Justice and Equity Centre (JEC) welcomes the opportunity to respond to the Consultation Paper on the Proposed Extension of AEMO's East Coast Gas System Reliability and Supply Adequacy Functions[1] (the Paper).

The Paper proposes establishing AEMO as a provider of 'last resort' financial support for new gas infrastructure. This market intervention is proposed as an underwriting of infrastructure deemed 'necessary' but not otherwise likely to be delivered by the market. It will, in effect be a government endorsed subsidy from energy consumers to the fossil fuel industry (gas project investors).

The JEC strongly oppose this proposal. We disagree the need for market intervention has been demonstrated, do not consider AEMO an appropriate party to exercise such a role, and consider it wholly inappropriate for the costs of any intervention to be carried by electricity consumers.

As we transition to a new net zero energy system there will be times when market interventions are required. But it is critical that any market intervention, especially one which supports emissions intensive infrastructure, must be robustly justified with evidence that it supports the lowest emissions options, and involve the lowest possible costs, with those costs fairly allocated. We do not consider the current proposal to meet any of these requirements.

Firstly, we do not see robust evidence demonstrating the mechanism is required, or that the potential risks suggested in the proposal are significant or urgent enough to warrant creating an explicit mechanism at this time.

Secondly, the Paper has not provided convincing arguments or evidence that the intervention will promote efficient investment in the long-term interests of energy consumers. Specifically, we highlight:

- That the gap analysis relied the proposal relies upon is outdated.
- That identified benefits are not transparently justified and are likely to be overstated.
- There is no meaningful consideration of the emissions impacts of the intervention.
- That the allocation of costs and risk are unfair.

We do not support progressing the proposal intervention. However, should it be implemented, it must:

- include the addition of an emissions analysis requirement, and
- not include any cost recovery from electricity consumers.

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[1] DCCEEW (Cth), *Proposed Extension of AEMO's East Coast Gas System Reliability and Supply Adequacy Functions – Consultation Paper*, January 2026, https://consult.dcceew.gov.au/proposed-extension-aemo-ec-gas-system.

The JEC provides its qualified support to proposed changes to the Gas Statement of Opportunities (GSOO) to include greater analysis of the gas supply gaps to better inform the market of opportunities for investment.

2. The mechanism is not required

We oppose the proposal on the basis no mechanism is required and could not be exercised as a 'last resort' action as proposed.

The proposed mechanism is described as one of last resort. However, we contend a mechanism of this kind, implemented by AEMO, would effectively become a 'first resort'. AEMO has generally demonstrated it has a low tolerance for uncertainly and risk, particularly where the costs involved in avoiding a potential risk are carried by consumers. Should this proposal proceed, we have serious concerns it would be deployed before any clear demonstration it is actually required, simply because avoids potential risk.

More specifically, the Port Kembla regassification terminal – one of the infrastructure projects identified as addressing potential gas shortfall risks - now has reached financial investment decision (FID).[2] It seems possible the mechanism could be used as soon as this year to underwrite a new gas terminal. Using the scheme in the next year would be premature, as it intervenes before it is clear the shortfall risks will be realised through market inaction. It would also ignore the short timeline by which such gas terminals can be built, and in doing so preclude any alternatives solutions to the potential gas supply gap, including solutions on the electricity storage or demand side.[3] This is particularly important where those solutions may be both cheaper for consumers and less emissions intensive.

In not supporting the proposed mechanism, we note that should any material risk of a gas supply actually become critical there is still sufficient scope for jurisdictions to support or directly finance required interventions at much shorter notice, including fast tracking legislation in the state parliament if required.

3. The investment problem and benefits of market intervention

We do not consider the demonstration of the problem and the urgency of its need to be sufficiently established by the analysis provided. We recommend the gap analysis, data and benefits case be updated, with more robust and transparent evidence provided before consideration of the proposal goes any further.

The proposal defines the problem as market failure to invest in gas supply infrastructure required to meet demand. Specifically that investment is being delayed or prevented due to demand and regulatory uncertainty. The purported consequence of this is that there will be a gas supply gap,

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2 See https://squadronenergy.com/news/squadron-energys-terminal-key-to-gas-reservation-policy-success/

3 It is also of note that if the gas supply investment risk does materialise, it is anticipated electricity generation needs will be met by fuel switching to secondary fuels including diesel, *see* ISP Draft 2025, pp.71-72; Paper, p.20.

in winter months from 2028 onwards, and this will impact gas prices, with financial consequences for both gas and electricity consumers, alongside economy wide consequences from high gas prices.[4]

3.1 The gap analysis should be updated

The *proposal* to explore this mechanism was approved at the Energy Ministers meeting in August 2025, following the analysis in the GSOO published in March 2025. The Paper was published in January 2026.

The Paper lists the types of facilities which the scheme will seek to assist as

- Domestic gas processing facilities or other upstream production operations
- LNG import facilities
- Transportation (pipeline or compression) facilities
- Storage facilities
- Blend processing facilities

The 2025 GSOO provides a detailed analysis of the specific facilities which AEMO considers key to meeting the gas supply gap. See in particular Table 1 – 2025 GSOO.[5] The list is extremely short and includes three options with associated new supply and transportation and storage capacity. The three options outlined are (1) LNG regasification terminals - including three terminals (NSW Port Kembla, SA Outer Harbour, and VIC Gelong), (2) Pipeline expansions and upgrades, and (3) southern supply.

Of significance Figure 6 2025 GSOO shows that any one of the three options addresses the potential supply gap. The 2025 GSOO suggests that building all three import terminals will in effect push back any prospective gap to at least the mid-2030s, almost ten years from now. Appendix 10 of the Draft ISP 2026 provides a similar but slightly different analysis. This suggests that it may be necessary to only build the Port Kembla and Gelong terminals.[6]

Since the 2025 GSOO and the Ministers' decision, four materially relevant factors have changed, none of which is captured in the Paper, or any associated analysis. Specifically:

- The owner of Eraring coal power station has indicated that they intend to keep the power station operational until 2029.[7] This reduces the scope for gas peaking, or longer duration gas generation to be required.
- The FID for the Port Kembla regasification facility has been confirmed, and the project is proceeding.[8] This indicates market progress and a much shorter timeframe to potential project delivery.

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4 Paper, pp.9-10.
5 See 2025 GSOO, pp.12-14, See also Draft ISP 2026 pp.71-72.
6 See 2025 GSOO, pp.12-14, See also Draft ISP 2026, Appendix 10, Table 3, p.18.
7 The prior extension of Eraring impacted the projection of the gas supply gap significantly – see 2025 GSOO, p.3.
8 See https://squadronenergy.com/news/squadron-energys-terminal-key-to-gas-reservation-policy-success/

- The cost of constructing large utility batteries has fallen further.[9] This comes alongside a constant stream of significant long-duration storage tender announcements and the progress of large batter projects. This is significant where batteries are increasingly being seen to take the role previously assumed for gas-peakers.[10]
- The government Home Battery Scheme has proven a great success, with thousands of home batteries being installed.[11] This further erodes the demand for gas peaking generation and the need for backup during longer wind and solar troughs.

Regardless of the robustness of the starting case presented to Ministers, these changes are material enough to warrant a pause to consider updated analysis in the 2026 GSSO. Moreover, when the 2026 GSOO is published its conclusions must be reviewed carefully to determine the exact scope and timing of any potential projected problem.

Where any potential gap *is* demonstrated to be beyond the immediate future, we consider it unnecessary (indeed problematic) to create a mechanism to enable financial underwriting by AEMO. Such a decision is premature given –

- There is more than sufficient time for market solutions to respond to any material gaps, including for example the market to confirm the FID of other regasification facilities without any underwriting as occurred with Port Kembla, and for new large scale utility batteries to enter the market.

- There are rapid ongoing changes in the electricity sector supply and demand side which could mean there is less need for gas power generation in the NEM than has been forecast to date, and that any prospective gas supply infrastructure gap does not eventuate. Given the rate of change in battery prices and rollout, this is should be a very material consideration.

- If a need for financial underwriting was be demonstrated, an *ad hoc* intervention by a state government to provide direct financial underwriting could be passed at short notice using state legislation. While these interventions are not our preference, they present less structural risk than explicitly creating a mechanism for AEMO (for the reasons outlined earlier).

3.2 The alleged benefits are misstated

The Paper does not provide a robust, transparent case for the need for and benefits of the proposal.

The Paper cites the following benefits of financial underwriting by AEMO from work by consultants ACIL Allen.[12]

- Wholesale gas prices fall up to 30% in 2029.

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9 AEMO, *Draft 2026 Forecasting Assumptions Update*, 23 December 2025, https://www.aemo.com.au/consultations/current-and-closed-consultations/draft-2026-forecasting-assumptions-update, see Figure 24, p.37. https://reneweconomy.com.au/global-proof-point-big-batteries-overtake-peaking-gas-generators-in-australias-biggest-state-grids/

10 Renew Economy, 13 February 2026 – 'Global proof point: big batteries overtake gas generators.'

11 See https://minister.dcceew.gov.au/bowen/media-releases/200000-bill-busting-batteries-installed-just-six-months

12 *See* Paper, pp.19-20.

- Electricity retail bills are up to 8% lower.
- An overall net benefit of $187 million in the gas and electricity sector.
- GDP will be $923 million higher and national income $1.08 billion higher.

However, there is no presentation of the ACIL analysis. These cannot be regarded as likely benefits without demonstration of how they have been derived and how likely it is that the assumptions will be realised.

The focus of the analysis appears to have been purely financial, with the modelling centering on the contention AEMO market intervention will avoid gas 'demand destruction' of 122 PJ. Reduced gas demand – particularly in the context of emissions reduction – could (and indeed should) be seen as a positive, at least in some circumstances. At the very least it is concerning that there is no detailed analysis of which aspects of reduced demand may be 'positive' and which may result from loss of otherwise viable industrial production.

For example, three gas 'demand destructions' are listed – less gas powered generation in the electricity sector, reduced gas use by C&I users, and less LNG exports. Broadly speaking, reduced gas demand resulting from less gas-powered generation should be regarded as desirable (from both an emissions and energy cost perspective), as should reduced C&I use that results from successful electrification. Less LNG exports may or may not be considered undesirable from a wider economic perspective, but it is a totally irrelevant and inappropriate consideration for a mechanism relating to domestic energy policy.

It is important to note the Paper, and Draft ISP 2026 state if the gas supply investment risk does materialise, it is anticipated electricity generation needs will be met by fuel switching to secondary fuels including diesel. The supply gap is therefore one primarily of gas supply, and not automatically an electricity reliability issue.[13]

There does not appear to have been any modelling of the GHG emissions impact, or flow on economic impacts from higher or lower emissions. This must be corrected.

3.3 Emission impacts should be properly considered

As above, we content a reduction of gas demand of 122 PJ would have a positive emissions impact. In any case, there must be transparent robust emissions analysis which demonstrates any gas supply infrastructure investment has a clear net emissions benefit.

It is important this modelling is available to the ECMC when it considers the proposal to introduce a mechanism to allow AEMO to be the investor of last resort.

Robust emissions modelling and the importance of demonstrating a net emissions benefit is critical due to the need to properly consider –

- National energy objectives
- Legislated Commonwealth and State emissions targets
- International emission commitments

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[13] *See* Draft ISP 2026, pp.71-72; Paper, p.20.

- Internation law obligations

The National Gas Objective includes the need to consider the achievement of emission reduction targets.[14]

Australia has international law obligations in respect of action on climate change, as recently confirmed by the International Court of Justice.[15] The ICJ Advisory Opinion provides clear guidance on the international law obligation arising from treaty and customary international law. These obligations include pursuing measures to achieve a states NDCs, and 'a duty to prevent significant harm to the environment by acting with due diligence and to use all means at their disposal to prevent activities carried out within their jurisdiction or control from causing significant harm to the climate system.' [16]

Any decision by AEMO, or state minsters to underwrite gas supply infrastructure must be very carefully considered and transparently justified. The decision-making process must include robust emissions analysis, and explicit consideration of the emissions impacts.

If a mechanism is introduced AEMO should be required to use the most up-to-date modelling of the net emissions benefit from any specific individual investment. This modelling should be also made available to a state minister when consenting to the investment. The requirement to demonstrate a positive emissions impact should be included as an explicit criterion in the ECGS last resort investment support objective, and as a requirement both AEMO and the Minister must be satisfied of. (Correspondingly, the proposed section 91 AFA (4) of the National Gas Law, that the investment support objectives are not required to be satisfied by AEMO or a Minister, should be deleted).

3.4 Non-fossil fuel investments should be fully considered

We strongly recommend further resources be dedicated to pursuing electrification, electricity storage and demand side solutions to reduce the risk of potential gas demand shortages, in preference to devoting time and resources to setting up a mechanism to underwrite fossil fuel infrastructure which may never be required. This is particularly important where:

- No clear gas supply gap or benefit has yet been demonstrated.
- State intervention on an *ad hoc* basis is possible at short notice if an urgent need arose.
- The proposed GSOO amendments found within the current proposal[17] have not been passed and given chance to have an impact on the levels of market investment.

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14 See *National Gas (South Australia) Act 2008* (SA) sch ('*National Gas Law*'), s 23; AEMO in exercising its role under the National Gas Law and National Gas Rules, must have regard to the National Gas Objective, see section 91A(2) National Gas Law.

15 See *Opinion on State Obligations in respect of Climate Change (Advisory Opinion),* 25 July 2025, Case No. 187, https://www.icj-cij.org/case/187, (ICJ Advisory Opinion).

16 ICJ Advisory Opinion, para 457; State obligations are summarised in para. 457; see the specific discussion of state action in respect of fossil fuel consumption and subsidies, and also actions of organs of the state, para. 427; see further the International Law Commission ILC Articles on State Responsibility, (Responsibility of States for Wrongful Acts), articles 4 and 5.

17 See Paper, section 4.

- Parallel mechanisms on reducing gas demand, and also on electricity supply, storage and demand interventions are in progress.

Work by officials on reducing gas demand, and solutions on the electricity supply, storage and demand side, should be prioritized at this time, over the proposal to make AEMO the investor of last resort.

4. There is unfair cost and risk allocation

As we transition to a new net zero energy system there will be times when market interventions are required and financial underwriting schemes can be justified. However, any instance of underwriting must be justified based on clear evidence it meets a demonstrated need, is the lowest cost alternative, and that it will assists long term emissions reduction.

When financial underwriting is justified cost and risk allocation must be fair and accord with the same principles shaping the market – that risks are placed with those best able to manage them, and costs sit with the direct beneficiaries of those costs. In this case, should the proposed mechanism proceed any risk and cost should be shared between investors and direct users of the infrastructure (buyers of gas), and potentially taxpayers.

The proposal in the Paper is for financial underwriting, with investors in gas supply infrastructure agreeing to be paid a price between a guaranteed minimum, and agreed maximum. 'Consumers' would guarantee the minimum price, and in exchange where the maximum price is exceeded any excess would be collected by consumers. The Paper sets out the proposal that the net cost of any AEMO intervention are –

- Shared among 'consumers' within the relevant state jurisdictions.
- States can agree on the cost sharing between jurisdictions.
- State will determine cost sharing in their jurisdiction, including between gas and electricity consumers.

In effect, state ministers are making decisions that energy consumers in their state will take on the risk of building new gas supply infrastructure which will benefit the owners of that infrastructure and the sellers of gas and gas services which use it. The exact structuring of the underwriting agreement agreed to will determine the proportion of risk shared by consumers and investors.

The JEC opposes any arrangement where energy consumers directly assume the costs involved in this underwriting mechanism, because

- Energy consumers (particularly electricity consumers) are not the direct beneficiaries – the purchases of gas, including gas generators are.
- Any payment from electricity consumers would represent a cross subsidy from electricity consumers to gas consumers (particularly large C&I consumers).
- To the extent that the cross subsidy is related to gas powered generation, this then represents a cross-subsidy to a fossil fuel generator.

A cross subsidy from electricity consumers to a gas generator is particularly problematic. It could effectively mean that gas generators do not face their full input costs. In effect, state ministers will be approving a fossil fuel subsidy enabling gas generators to compete against more efficient/less emissions intensive renewables and batteries. This impedes the market from finding the most efficient, lowest emissions generation solution.

If adopted the proposed mechanism must ensure that there is no cost allocation to consumers, particularly electricity consumers.

We recommend that if this mechanism proceeds, costs be recovered directly from gas purchasers at the wholesale level including generators. This solution would ensure the costs are incorporated into the competitive market, and that all downstream users pay a fair share proportionate to their 'benefit'.

5. Proposed changes to the GSOO

The JEC provides its qualified support the Consultations Papers proposed changes to the GSOO to include greater analysis of the gas supply gaps to assist the market in filling these gaps.

However, it is critical any extension of the GSOO which further encourages investment in a fossil fuel industry must be considered alongside:

- International, national and state emissions commitments and obligations.
- How the new infrastructure will lead to a net emissions benefit. With the contrary being the risk of locking in fossil gas use for extended periods.
- Fully exploring the non-fossil fuel alternatives available to meeting the energy needs of end users.

6. Continued engagement

We welcome the opportunity to meet with the Department and stakeholders to discuss these issues in more depth. Please contact Jonathan Struggles on jstruggles@jec.org.au regarding any further follow up.