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What Has Been Left Behind in Previous IEEJ Reports and Submissions? - Reflections from Legal Analysis and Stakeholder Submissions

- Australia's Domestic Gas Reservation Scheme #Issue 4

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Introduction

As readers are aware, the Institute of Energy Economics, Japan (IEEJ) previously submitted formal comments during the consultation process on the Exposure Draft¹ legislative package for the proposed Australian Domestic Gas Reservation Scheme (DGRS) on 24 September 2026.

In parallel with the preparation of those comments, IEEJ has reviewed a range of additional materials that have since become publicly available, including analyses published by leading Australian law firms, submissions released by industry associations such as Australian Chamber of Commerce and Industry (ACCI), and, on a limited basis, submissions prepared by individual market participants.

While the IEEJ submission addressed what it considered to be the principal policy, contractual, investment and energy security issues arising from the Exposure Draft legislation, this broader review highlighted several additional questions and implementation challenges that were not extensively explored in IEEJ's earlier papers and submissions. These issues do not necessarily replace or supersede the observations already made by IEEJ. Rather, those views by others complement the IEEJ's views by drawing attention to practical, legal, regulatory and market design considerations that may become increasingly important as the proposed regime moves from policy design to implementation.

The purpose of this note is therefore to identify and discuss several significant issues that have emerged from those external analyses and submissions, with particular

¹ An exposure draft bill is a preliminary version of proposed legislation released by the Government to seek comments from stakeholders and the public before a final bill is formally introduced into Parliament.

emphasis on matters that were not addressed in detail in previous IEEJ publications. In doing so, the paper seeks to contribute to a broader understanding of how the DGRS may operate in practice and where further policy clarification or refinement may be beneficial.

The observations presented below are organised by topic and draw upon publicly available legal commentary and stakeholder submissions where appropriate. They are intended as supplementary observations to the existing IEEJ analysis rather than a reconsideration of the conclusions previously reached.

1 The DGRS Has Evolved from a Reservation Scheme into a Market-Balancing Mechanism

One of the most significant developments emerging from the Exposure Draft legislation is that the scheme appears to have moved well beyond the original concept of a simple 20% domestic gas reservation obligation. Earlier discussions, including the Draft Design Framework (DDF)², were largely framed around the proposition that LNG exporters would be required to reserve a fixed percentage of export volumes for the domestic market. However, several legal commentators have observed that the Exposure Draft now operates quite differently in practice.

According to Norton Rose Fulbright, the Exposure Draft represents a “fundamental shift in design philosophy”, moving away from “a universal volume-based compliance model” towards what it describes as “a market-balancing mechanism”. The firm notes that the practical objective of the scheme is no longer simply a 20% reservation, but rather the maintenance of an aggregate domestic supply target equal to approximately 110% of forecast domestic demand. Under this model, the Domestic Supply Obligation (DSO) percentage becomes a variable policy instrument whose actual level is determined through Ministerial decisions and the AER-led demand calibration process.

This distinction is highly significant because it changes the central policy question. Under the DDF, industry largely debated whether a 20% reservation requirement was justified. Under the Exposure Draft, the more important issue may become how domestic demand is forecast, how much supply buffer is considered appropriate, and how the Australian Energy Regulator (AER) calibrates obligations over

² The document was released in May 2026 to present ideas of the scheme.

time. As a result, much of the future regulatory burden may depend not on Parliament's legislation itself but on subsequent regulatory methodologies, assumptions and forecasts.

An important implication is that future policy debates may increasingly focus on:

- ✓ AER forecasting methodologies;
- ✓ Ministerial discretion in determining supply targets;
- ✓ the justification for maintaining a 110% domestic supply objective; and
- ✓ the interaction between demand calibration and investment incentives.

These issues were not central themes of previous IEEJ submissions. The IEEJ comments correctly emphasised the need for calibration and questioned the rationale for a fixed 20% upper bound. However, the Exposure Draft suggests that the central policy issue may now be how the Government and AER manage the market-balancing framework itself. In practice, future outcomes may be driven less by the statutory 20% ceiling and more by the administrative decisions underpinning the calibration process.

For investors and LNG buyers, this evolution introduces a different category of risk. Rather than assessing a fixed reservation obligation, market participants may need to assess how future governments, Ministers and regulators interpret the need for domestic oversupply and how aggressively the calibration mechanism is applied in different market conditions. As Norton Rose Fulbright notes, this creates a significant new challenge for forecasting long-term project economics and regulatory outcomes.

2 Physical Connectivity Does Not Necessarily Mean Deliverability

A second issue that received comparatively limited attention in earlier IEEJ work concerns the distinction between physical connectivity and practical deliverability.

The Exposure Draft introduces the concept of a “physical domestic market”, which relies heavily on pipeline connectivity in determining the domestic market into which an LNG exporter must supply gas. At first glance, this appears to be a sensible and practical improvement over the earlier framework, which relied more heavily on theoretical swap arrangements and indirect supply pathways. Indeed, the recognition that Western Australia and eastern Australia constitute separate physical markets was one of the most important improvements in the legislation.

However, a company submission highlights a critical weakness in this approach. The submission argues that physical connectivity is not sufficient evidence of an actual

ability to supply domestic gas. It notes that practical deliverability depends upon a wider range of technical and commercial factors, including pipeline pressure limitations, gas quality specifications, transportation capacity, processing constraints, third-party infrastructure access arrangements and the commercial viability of transportation agreements.

This issue is particularly important for Northern Territory projects such as Ichthys LNG. The company notes that a nominal physical connection exists between its facilities and parts of the domestic gas system, yet substantial practical constraints prevent meaningful gas supplies from being delivered into eastern Australian markets. The submission argues that pipeline pressure differences, capacity limits and commercial realities mean that the mere existence of a pipeline should not be treated as evidence that domestic supply is genuinely achievable.

Perhaps more importantly, this issue extends beyond the Northern Territory. In many regulated industries, policymakers often treat infrastructure availability as a binary issue: either a connection exists or it does not. In reality, gas markets operate within technical constraints that frequently render theoretical connectivity ineffective. The distinction between connectivity and deliverability therefore becomes central to understanding whether DSO obligations are physically achievable.

The company further argues that swap arrangements are unlikely to provide a realistic solution in many circumstances. According to the submission, LNG and gas swaps are uncommon, commercially complex and difficult to negotiate. Requiring Northern Territory exporters to satisfy DSO obligations by entering into swap arrangements with eastern Australian producers may place them at a significant commercial disadvantage.

This notion of “practical deliverability” deserves greater attention because it may ultimately prove more important than physical connectivity itself. Future implementation debates may focus increasingly on whether exporters can realistically supply domestic markets, rather than simply whether pipelines connect them in theory.

3 Success Should Be Measured by Long-Term Contracting Outcomes, Not Merely Supply Volumes

One of the most interesting observations contained in the ACCI submission

relates to how the success of the DGRS should be measured. Much of the public discussion surrounding the legislation has focused on whether the policy increases the volume of gas offered into the domestic market. However, ACCI argues that this is not necessarily the most meaningful measure of success.

According to ACCI, the key question should be whether Australian businesses are able to obtain commercially viable long-term gas contracts. The submission notes that domestic manufacturers and gas-intensive industries make investment decisions on the basis of confidence in future supply availability, pricing and reliability. While a reservation scheme may increase the volume of gas that is formally offered for sale, it does not automatically follow that consumers will be able to secure long-term contractual arrangements.

This distinction is particularly important because annual recalibration of DSO obligations may increase uncertainty regarding future gas availability. In that environment, suppliers may become more reluctant to commit to long-term contracts and may instead prefer shorter-duration agreements. If this occurs, the scheme could increase short-term market liquidity while simultaneously reducing contracting certainty.

The implication is that a successful domestic gas market should not be evaluated solely by volume metrics. A more sophisticated set of indicators might include:

- ✓ availability of long-term contracts;
- ✓ contract tenors;
- ✓ contracting liquidity;
- ✓ industrial users' ability to secure supply over multiple years; and
- ✓ confidence in future supply arrangements.

This perspective is particularly relevant to Japanese stakeholders. Previous IEEJ submissions emphasised long-term LNG contracts and Australia's role as a reliable international supplier. However, ACCI effectively applies the same logic to Australia's domestic market. In both cases, long-term investment and energy security depend not merely on the existence of supply but on confidence that future contractual arrangements can be secured.

As implementation proceeds, it may therefore be useful to assess the DGRS not only through traditional supply-demand indicators but also through its impact on

domestic contracting behaviour. Such an approach may better capture whether the policy is genuinely improving long-term energy security.

4 The DGRS May Be Shifting Responsibility for Infrastructure Development onto LNG Exporters

A final issue that has received relatively limited attention concerns the relationship between domestic gas obligations and infrastructure development.

The Exposure Draft recognises infrastructure constraints as grounds for exemptions or DSO adjustments. However, one company submission argues that the framework may implicitly place responsibility on individual LNG exporters to resolve infrastructure deficiencies affecting domestic gas supply.

The submission notes that overcoming infrastructure constraints frequently requires:

- ✓ pipeline development;
- ✓ compression facilities;
- ✓ storage infrastructure;
- ✓ regulatory approvals;
- ✓ customer demand commitments; and
- ✓ significant third-party investment.

Most of these factors lie outside the direct control of any LNG exporter. The concern is therefore that, by linking adjustments to infrastructure availability, the framework may effectively pressure exporters to solve issues that are fundamentally system-wide infrastructure problems.

The company argues that infrastructure development depends upon commercially viable customer demand and broader market conditions. It further contends that LNG exporters should not be required to incur disproportionate costs simply to preserve access to DSO adjustment mechanisms. This issue appears particularly acute in the Northern Territory, where transporting meaningful quantities of gas to eastern Australia would likely require substantial infrastructure investment by multiple parties.

The broader policy question is whether Australia intends the DGRS to be a domestic supply mechanism or an infrastructure development mechanism. If exporters

are expected to overcome pipeline and transportation constraints, the scheme effectively extends beyond supply obligations and into infrastructure policy. Such a role was not explicitly articulated in either the Draft Design Framework or the legislation.

This issue also intersects with the broader observations made by ACCI, which repeatedly argues that long-term energy security requires: timely approvals; investment in new reserves; pipeline expansion; storage capacity; and greater market connectivity.

ACCI therefore contends that the DGRS should be accompanied by a broader supply-side strategy rather than expected to resolve structural infrastructure constraints on its own.

Viewed in this context, one of the key unanswered questions is whether the Government intends to directly support new infrastructure, or whether compliance pressures will indirectly transfer that responsibility onto LNG exporters. The answer to that question may have significant consequences for future investment behaviour and ultimately for long-term domestic gas supply.

Concluding Observations

The issues identified above differ from the major themes already addressed by IEEJ regarding competition with existing contracts, WA policy interaction, demand calibration and investment certainty. Instead, they relate to the practical boundaries of implementation.

Collectively, these observations suggest that the next phase of debate may increasingly focus not on whether a Domestic Gas Reservation Scheme should exist, but on how it is administered in practice, how the AER exercises its new powers, how Demand Calibration is carried out, how Physical Domestic Market is interpreted, how infrastructure constraints are interpreted, and whether the framework succeeds in promoting durable investment and long-term contracting outcomes rather than simply reallocating existing gas volumes.

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Note:

This paper is intended as a supplementary discussion note identifying issues that were not extensively examined in previous IEEJ submissions. It should be read together with IEEJ's earlier comments on the Draft Design Framework and the Exposure Draft Legislative Package.

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