

DECARBONISING AUSTRALIA'S ECONOMY: THE FUTURE OF GAS IN THE ENERGY TRANSITION

[Australia's Future Gas Strategy](#) was released on 9 May 2024 and recognises the important role of Australian gas and LNG in expediting the transition to net zero and supporting the development of domestic investment in the clean energy sector, including hydrogen. This is relevant to the broader question about the role of gas in the energy transition in the context of the "energy trilemma" – energy security, energy sustainability and energy affordability.

Future Gas Strategy

On 9 May 2024, the Australian Government released its [Future Gas Strategy](#), which sets out six overarching principles that the government will use to guide policymaking to support the transition to net zero.

1. Australia is committed to supporting global emissions reductions to reduce the impacts of climate change and will reach net zero emissions by 2050.
2. Gas must remain affordable for Australian users throughout the transition to net zero.
3. New sources of gas supply are needed to meet demand during the economy-wide transition.
4. Reliable gas supply will gradually and inevitably support a shift towards higher-value and non-substitutable gas uses. Households will continue to have a choice over how their energy needs are met.
5. Gas and electricity markets must adapt to remain fit for purpose throughout the energy transition.
6. Australia is and will remain a reliable trading partner for energy, including Liquefied Natural Gas (LNG) and low emission gases.

Impact on Business

The Strategy evidences the Australian Government's intention to continue expanding and investing in the gas industry in the coming decades. This was affirmed by the Minister for Resources and Minister for Northern Australia Madeleine King on 9 May 2024, who noted that "*the Strategy makes it clear that gas will remain an important source of energy through to 2050 and beyond*".

Key issues

- There will be continued expansion and investment in the gas industry through to 2050 and beyond.
- The Strategy reflects a commitment to Australia's role as a key exporter of LNG in the global energy mix.
- Retaining sufficient supplies of gas for the Australian domestic market will continue to be a key focus of government and this is something that investors will need to continue to monitor in the context of projects focused on exporting LNG.
- Foreign investors who are currently not protected by any investment treaties should consider how they might re-structure their investments to take advantage of treaty protection.
- Investment in CCS projects is likely to grow and present opportunities for energy companies to leverage their existing experience in other jurisdictions including the US and bring that knowledge and technology to bear in Australia.
- Investment in the decommissioning industry is likely to grow and Australia has the potential to become a market leader across APAC.

Export Market

The Strategy commits Australia to continued overseas exportation of gas in the form of LNG, including to Japan and Korea (which are countries that rely on Australian LNG as a key component of their energy transition), and to meeting Australia's long-term contracts for LNG. The Strategy also acknowledges the large-scale investment from regional partners in Australia's LNG industry. It expects Australia's LNG exports to decline by 2050 but notes this is not a policy setting.

There is some potential for this commitment to conflict with the revised [Australian Domestic Gas Security Mechanism \(AGDSM\)](#) which commenced on 1 July 2017 pursuant to the customs regulations and guidelines¹ and is in place until 2030. It was reformed by the Australian Government in April 2023 and provides greater flexibility for the government to curb exports of LNG in the event of a domestic shortfall. The government's acknowledgment in the Strategy regarding the need for new sources of gas supply may help to mitigate this risk.

Any curbing of LNG exports in response to a domestic shortfall may prompt foreign investors, who have invested in LNG projects in Australia and who are adversely affected by such measures, to bring claims against Australia under investment treaties. Australia is a signatory to a number of investment treaties where those foreign investors are incorporated, including Japan and Korea. These investment treaties provide protections to foreign investors, including requiring that Australia respect their legitimate expectations, refrain from discrimination and more generally, afford them "fair and equitable" treatment. In the event of restrictions of LNG exports, Australia may risk claims from those foreign investors for damages in international arbitration.

Foreign investors who have invested in LNG projects in Australia should keep up-to-date on Australia's strategy in this regard and assess their rights accordingly. In addition, foreign investors who are currently not protected by any investment treaties should consider how they might re-structure their investments to take advantage of treaty protection.

Domestic Market

Domestic shortages of gas remain a continued focus area for the Australian Government and state governments.

In Western Australia, the state's reservation policy mandates that all new offshore fields must allocate about 15 per cent of produced gas to the domestic market, while onshore gas supplies are dedicated to the domestic market.

On the East Coast, the Australian Government signed a new Heads of Agreement with East Coast LNG Exporters on 29 September 2022 which is intended to prevent gas supply shortfall through access to secure and competitively priced gas for the East Coast domestic market.

Pursuant to the terms of the Heads of Agreement the government and East Coast LNG Exporters have agreed to certain commitments until 1 January 2026 including:

¹ Customs (Prohibited Exports) Regulations 1958 and Customs (Prohibited Exports) (Operation of the Australian Domestic Gas Security Mechanism) Guidelines 2023.

- (uncontracted gas) uncontracted gas to first be made available to the domestic market;
- (uncontracted gas prices) domestic gas customers to not pay more for gas than international customers; and
- (transparency) information that provides domestic customers with visibility on uncontracted gas volumes to be published on the website of East Coast LNG Exporters every 6 months.

Given that one of the action items listed in the Strategy is to prevent gas shortfalls and increase domestic gas supplies, it will be important to monitor how the existing Commonwealth retention lease policies will be updated, and whether gas producers across Australia will be required to increase domestic gas supplies. Such policies are likely to have a direct impact on gas operators across Australia and on Australia's LNG exports.

To address imminent domestic shortfall, the Australian Government introduced a 12-month emergency cap on gas prices at A\$12 per gigajoule (GJ), applicable to new domestic wholesale gas contracts entered into by east coast producers.

Subsequently, in July 2023 a [mandatory Gas Code of Conduct](#) for gas producers and users was introduced which includes price rules banning the domestic supply of gas above a 'reasonable price' (currently set at A\$12 per GJ)². This Code is enforced by the Australian Competition and Consumer Commission (ACCC).

It remains to be seen whether the legislative moratoria and regulatory restrictions on onshore gas exploration and development in some states and territories in Australia including Victoria and South Australia will come under scrutiny in the context of the future of gas in the energy transition and the energy trilemma of energy security, energy sustainability and energy affordability.

Carbon Capture and Storage

The Strategy commits the Australian Government to promote the growth of carbon capture and storage (CCS) projects. Australia hosts the world's largest commercial CCS project, the Chevron Australia Gorgon LNG Project in Western Australia. In this regard, Australia has committed "*to provide regulatory and administrative certainty for offshore CCS projects*", with a goal to stimulate the sector in Australia. This is testament to the Australian Government's support for onshore and offshore CCS projects.

Decommissioning

In connection with decommissioning, the Australian Government will be releasing a roadmap later this year to establish an Australian decommissioning industry for offshore oil and gas. Supporting an Australian decommissioning industry is intended to establish new opportunities in many regional areas and attract new investment in Australian businesses. Increasing the uptake of CCS will be critical in that regard, along with repurposing of aging oil and gas assets.

As was noted by Minister King, "*with the right settings in place, Australia is well placed to scale up a viable domestic offshore decommissioning industry in this country*". Minister King estimates that in respect of Australia's offshore oil and gas industry, the Australian Government will be required to spend

² Refer to Part 4, Division 2 of the Competition and Consumer (Gas Market Code) Regulations 2023

"approximately \$60 billion to remove, dismantle, scrap and recycle ageing offshore infrastructure".

Ultimately, the Strategy addresses the energy trilemma by seeking to strike a balance between advancing the clean energy transition and securing future energy reliability, affordability and sustainability.

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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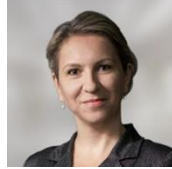
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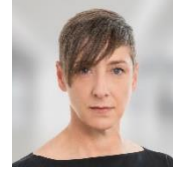
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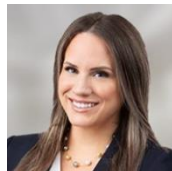
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