

Capacity Trading Reform Package: Final legal and regulatory framework

(National Gas Law, National Gas Rules, Regulations and
Operational Transportation Service Code)

Explanatory Note

22 November 2018





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Abbreviations

Term	Definition
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
AEST	Australian Eastern Standard Time
APGA	Australian Pipelines and Gas Association
APLNG	Australia Pacific LNG Pty Limited
BB or Bulletin Board	Natural Gas Services Bulletin Board
CBU	Contracted but un-nominated capacity
COAG	Council of Australian Governments
Code	Operational Transportation Service Code
CT&A Procedures	Capacity Transfer and Auction Procedures
DTS	Declared Transmission System
DWGM	Declared Wholesale Gas Market
<i>East Coast Review</i>	AEMC's <i>Eastern Australian Wholesale Gas Market and Pipelines Framework Review</i> (May 2016)
ECA	Energy Consumers Australia
Energy Council	COAG Energy Council
EUAA	Energy Users' Association of Australia
GMRG	Gas Market Reform Group
GPV	Gas Pipelines Victoria Pty Ltd
GSH	Gas Supply Hub
GTA	Gas Transportation Agreement
MDQ	Maximum Daily Quantity
MEU	Major Energy Users Inc
MHQ	Maximum Hourly Quantity
NGL	National Gas Law
NGO	National Gas Objective
NGR or Rules	National Gas Rules
NQP	Northern Gas Pipeline
OTSA	Operational Transportation Service Agreement
Panel	Operational Transportation Service Code Panel
PIAC	Public Interest Advocacy Centre
PWC	Power and Water Corporation
SCO	Energy Council's Senior Committee of Officials
STTM	Short Term Trading Market



Key terms used in legal and regulatory framework

This table explains key terms used in the legal and regulatory framework. For the precise wording of the terms, refer to the National Gas Law (NGL) and the National Gas Rules (NGR).

Term	Definition
Types of market participants	
auction participant	A shipper becomes an auction participant by entering into an auction agreement with AEMO.
exchange member	A person becomes a member of the gas trading exchange (Gas Supply Hub) by becoming party to the Exchange Agreement.
facility operator	<p>In Parts 24 and 25 of the NGR, refers to the transportation service provider registered under Part 24 as the facility operator for the Part 24 facility.</p> <p>In Part 26 of the NGR (the standard market timetable): in the case of a</p> <ul style="list-style-type: none"> (a) a production facility, refers to each producer, user or non-scheme pipeline user who owns, operates or controls the production facility; (b) a gas storage facility, refers to each storage provider for the gas storage facility; and (c) a transportation facility, refers to each transportation service provider for the facility.
primary shipper	A transportation facility user in its capacity as a party to a primary facility agreement – that is, the shipper has bought the capacity direct from the transportation service provider.
secondary shipper	A shipper that has bought the capacity from another shipper on an operational transfer basis.
transportation facility user	The term used to describe a shipper, including both a primary shipper and a secondary shipper.
transportation service provider	A person that owns, controls or operates a transportation facility.
Types of facilities	
auction facility	A transportation facility that is subject to the auction.
bidirectional pipeline	<p>A pipeline (or part of a pipeline) that satisfies the following:</p> <ul style="list-style-type: none"> (a) the direction of the physical flow of natural gas on the pipeline (or part) is capable of being reversed under normal operating conditions; and (b) shippers have transportation capacity for firm forward haul services on the pipeline in both physical flow directions.
compression service facility	<p>A facility for compressing natural gas. The term includes the compression service facilities designated in Schedule 2A of the Regulations, which are the compressors located in Wallumbilla, Moomba, Ballera and Iona.</p> <p>The term excludes:</p> <ul style="list-style-type: none"> (a) a facility operated as part of a gathering system operated as part of an upstream producing operation; or (b) anything downstream of a point on a pipeline from which a person takes natural gas for consumption purposes.
conditionally exempt facility	<p>A transportation facility that is the subject of an exemption granted by the AER because it is:</p> <ul style="list-style-type: none"> (a) a single user facility; or (b) has a nameplate rating less than 10 TJ per day. <p>While these facilities are exempt from the obligation to publish a standard OTSA and to be subject to the auction they are subject to a number of other obligations.</p>



Term	Definition
gas storage facility	A facility for storing natural gas for injection into a pipeline.
natural gas facility	A production facility, a transportation facility or a gas storage facility.
Part 24 facility	A transportation facility that is not an exempt transportation facility.
production facility	A facility at which natural gas is produced so that it is in a form suitable for injection into a pipeline.
single direction pipeline	A pipeline (or part of a pipeline) that is not classified as bidirectional.
single user facility	A transportation facility that provides third party access and on which all transportation services are provided to a single transportation facility user (taking into account transportation services provided both directly and indirectly by the transportation service provider).
stand-alone compression service facility	<p>A compression service facility that is or may be used to facilitate the flow of natural gas <i>between</i> transmission pipelines and in respect of which compression services are or may be provided, but does not include a facility operated as part of a gathering system operated as part of an upstream production operation or downstream of a point on a pipeline from which a person consumes gas.</p> <p>This term is not intended to capture facilities that form part of a pipeline and whose services are provided as part of the pipeline service.</p>
third party access facility	<p>A transportation facility (or the relevant part) on which any transportation services are offered or provided, directly or indirectly to any person other than:</p> <ul style="list-style-type: none"> (a) the transportation service provider for the transportation facility; (b) a related body corporate of the transportation service provider for the transportation facility; or (c) a joint venture in which the transportation service provider for the transportation facility or a related body corporate of the transportation service provider for the transportation facility is a joint venture participant.
transportation facility	A pipeline or compression service facility. The NGL allows the Regulations to specify other types of transportation facility..
Types of agreements and instruments	
auction agreement	An agreement between a shipper and AEMO under which the shipper becomes an auction participant. The standard form auction agreement is made by AEMO and set out in the CT&A Procedures.
Exchange Agreement	The agreement made by AEMO under Part 22 of the NGR that establishes the GSH. Shippers and others are party to the agreement to trade, as observers or to provide reallocation services.
facility agreement	An agreement between a shipper and a transportation service provider for the provision of pipeline or compression services, such as a primary gas transportation agreement or an OTSA.
Operational Transportation Service Agreement (OTSA)	An agreement between a transportation service provider and a transportation facility user (shipper) under which the shipper can user capacity bought from another shipper (including through the gas trading exchange) or through the auction.
Operational Transportation Service Code (Code)	The Code is made under the NGR and specifies what must be included in standard OTSAs, including the transportation services that may be provided under a standard OTSA and the terms and conditions applicable for use of those transportation services.



Term	Definition
primary facility agreement	An agreement under which a shipper buys capacity direct from the transportation service provider. If an agreement provides for the use of primary capacity and secondary capacity, a reference to a primary facility agreement only includes the agreement as it applies to primary capacity.
standard OTSA	The OTSA that transportation service providers for Part 24 facilities and conditionally exempt facilities must prepare and offer to enter into. The terms of the standard OTSA must principally comply with Code.
Types of services	
auction service	Each of the following services, as applicable to the relevant auction facility: (a) forward haul auction service; (b) backhaul auction service; and (c) compression auction service, The Rules assume the auction service is provided on the terms and conditions of the standard OTSA for the auction facility.
backhaul service	A pipeline service provided by means of a single direction pipeline (or part of a pipeline), where the direction of service is predominantly opposite to the actual physical flow of gas in the pipeline.
compression service	A service provided by means of a compression service facility.
operational transportation service	A transportation service provided under an OTSA.
park service	A transportation service under which transportation capacity in a pipeline is made available for use as a storage service and which may also permit a transportation facility user to loan natural gas from the pipeline.
pipeline service	A service provided by means of a pipeline.
standard operational transportation service	Each of the operational transportation services described in the Code, including the auction services.
transportation service	A pipeline service or a compression service.
Other capacity trading and day-ahead auction concepts	
auction capacity	The quantity of the auction product available to be allocated in the day-ahead auction for the gas day. The auction capacity is determined using the auction quantity limits for the gas day.
auction quantity limit	The auction quantity limits are determined by transportation service providers each day applying the calculations in the CT&A Procedures and provided to AEMO.
firm	In general terms, refers to the high priority transportation services that are typically described as firm in facility agreements. The term is defined in Part 25 by reference to when the capacity is reserved for use and the priority it is given in scheduling. Auction services sold in the auction are not firm services. Note that Schedule 5 of the NGR provides for certain services to be treated as 'transitional firm' for the purposes of this definition.
gas trading exchange	Another term for the Gas Supply Hub (GSH) operated by AEMO. It is also referred to as the 'exchange' in this Explanatory Note.
lower tier service	In general terms, refers to a service that is not a firm service or an auction service. Examples of lower tier services include transportation services described as "interruptible", "as available" or "authorised overrun" (or services equivalent in nature to such services).



Term	Definition
nomination	A nomination for use of a transportation service, which may include the quantity of natural gas and service points in respect of which the transportation service will be used.
operational transfer	<p>A transfer of transportation capacity where the shipper uses the capacity under an OTSA and can nominate to the transportation service provider.</p> <p>An operational transfer can be distinguished from a bare transfer, under which the buyer (secondary shipper) does not have an agreement with the transportation service provider and relies on the seller (primary shipper) to nominate on its behalf.</p>
primary capacity transaction	A transaction under which a shipper buys capacity direct from the transportation service provider.
primary transportation capacity	The transportation capacity acquired by a shipper in a primary capacity transaction. Transportation capacity ceases to be primary transportation capacity once it is transferred by means of an operational transfer (even if later bought back by the primary shipper).
renomination	A request made after the nomination cut-off time for a gas day to vary a nomination for the gas day, including a variation to a deemed or default day-ahead nomination.
reserved	In general terms, refers to a booking of a specific quantity of capacity before nomination cut-off time. The term is used as part of the definition of 'firm' in Part 25 to distinguish it from capacity that is sold on the basis it becomes firm only after other firm services have been scheduled.
secondary capacity transaction	A transaction between shippers for the sale of capacity, including both bare transfers and operational transfers.
transaction support arrangements	Means arrangements to facilitate the trade of capacity conducted through the gas trading exchange or day-ahead auction. These arrangements include those put in place by AEMO under the CT&A Procedures to enable AEMO to notify operational transfers to transportation service providers where capacity has been sold through the capacity trading platform or auction.
transfer	A broad term used in the NGL to refer to the transfer of capacity from one shipper to another, which involves a reduction in the seller's MDQ and an increase in the buyer's MDQ.
transportation capacity	A right to use a transportation service, usually quantified in terms of MDQ.
Standard market timetable concepts (Part 26)	
standard market timetable	The standard market timetable specified in the NGR in accordance with section 83B of the NGL, which will commence on 1 October 2019.
gas day	A period of 24 consecutive hours used for the nomination, scheduling and provision of services provided by means of a natural gas facility.
standard gas day	When the standard market timetable commences, a gas day starting at 6 am.
nomination cut-off time	The time by which a day-ahead nomination for a gas day must be made for the purposes of scheduling for that gas day.
standard nomination cut-off time	When the standard market timetable commences, 3:00 pm on the gas day immediately preceding the gas day to which the nomination relates.
auction service nomination cut-off time	When the standard market timetable commences, 6:45 pm on the gas day immediately preceding the gas day to which the nomination relates.



1. Introduction and summary

The Gas Market Reform Group (GMRG) was established by the COAG Energy Council (Energy Council) in the latter half of 2016 to lead the design, development and implementation of a range of reforms set out in the Gas Market Reform Package, including a package of capacity trading reforms.¹

The capacity trading reform package was recommended by the Australian Energy Market Commission (AEMC) as part of its *Eastern Australian Wholesale Gas Market and Pipelines Framework Review (East Coast Review)* and endorsed by the Energy Council at its August 2016 meeting. The reforms, which relate to transmission pipelines and compression facilities (jointly referred to as ‘transportation facilities’) operating under the contract carriage model,² include the implementation of:

1. A capacity trading platform that will form part of the gas trading exchange (i.e. the Gas Supply Hub (GSH)) and provide for exchange-based trading of commonly traded transportation products and a listing service for other more bespoke products.
2. A day-ahead auction of contracted but un-nominated capacity (CBU), which will be conducted each day on non-exempt transportation facilities shortly after nomination cut-off time and subject to a reserve price of zero.
3. A range of measures to facilitate capacity trading and the day-ahead auction, including the development of standard operational transportation service agreements (standard OTSAs) that will establish the standard contract terms between transportation service providers and shippers for capacity procured through the capacity trading platform, auction and bilaterally (i.e. if the secondary shipper elects to use an operational transfer).
4. A reporting framework for secondary capacity trades and a number of other transparency measures that are designed to facilitate capacity trading and the auction.
5. A standard market timetable that provides for:
 - a common gas day start time of 6 am (AEST) across the east coast and the Northern Territory (NT) that will apply to all production, pipeline, compression and storage facilities and in the facilitated markets; and
 - a common nomination cut-off time of 3 pm (AEST) for transportation facilities subject to the capacity trading reforms and common auction service nomination cut-off time of 6:45 pm (AEST) for transportation facilities subject to the auction.

Together these reforms are expected to foster the development of a more liquid secondary capacity market and, in so doing, improve the efficiency with which capacity is allocated and used on transportation facilities. Greater liquidity in this market is expected to facilitate increased trade in gas and support the development of a more robust reference price for gas. This, in turn, is expected to enable market participants to make more informed decisions about their use of gas and investments in exploration, production, pipelines and storage facilities. The package of reforms is therefore expected to promote the National Gas Objective (NGO) and the Energy Council’s Vision for the Australian Gas Market (*Vision*) (see Box 1.1).

¹ COAG Energy Council, Bulletin Two: Gas Market Reform Package, August 2016.

² The contract carriage model is in place on all pipelines and compression facilities operating outside the Declared Transmission System in Victoria.



Box 1.1: National Gas Objective and Vision for the Australian Gas Market

National Gas Objective

The NGO is set out in section 23 of the NGL and states the following:

The objective of this law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas.

Energy Council's Vision for the Australian Gas Market³

The Energy Council's *Vision* is for:

...the establishment of a liquid wholesale gas market that provides market signals for investment and supply, where responses to those signals are facilitated by a supportive investment and regulatory environment, where trade is focused at a point that best serves the needs of participants, where an efficient reference price is established, and producers, consumers and trading markets are connected to infrastructure that enables participants the opportunity to readily trade between locations and arbitrage trading opportunities.

At the time it released the *Vision*, the Council also noted that it would pursue the following outcomes in the next phase of gas market reform and development:

Stream 1: Encouraging competitive gas supply:

- (a) Improvements to the regulatory and investment environment so that gas supply is able to respond flexibly to changes in market conditions.
- (b) A "social licence" for onshore natural gas development achieved through inclusion, consultation, improving the availability and accessibility of factual information to resources projects, and rigorous science to ensure communities concerns are addressed.

Stream 2: Enhancing transparency and price discovery:

- (a) Provision of accurate and transparent market making information on pipeline and large storage facilities operations and capacity, upstream resources, and the actions of producers, export facilities, large consumers and traders.
- (b) Increased flexibility and opportunity for trade in pipeline capacity.
- (c) A competitive retail market that will provide customers with greater choice and large users with enhanced options for self-supply and shipment.

Stream 3: Improving risk management:

- (a) Liquid and competitive wholesale spot and forward markets for gas that provide tools for participants to price and hedge risk.
- (b) Access to regional demand markets through more harmonised pipeline capacity contracting arrangements which are flexible, comparable, transparent on price, and non-discriminatory in terms of shippers' rights, to accommodate evolving market structures.
- (c) Harmonised market interfaces that enable participants to readily trade between locations and find opportunities for arbitrage and trade.
- (d) Identified development pathways to improve interconnectivity between supply and demand centres, and existing facilitated gas markets, which enable the enhanced trading of gas.

Stream 4: Removing unnecessary regulatory barriers:

- (a) Regulation of gas supply and infrastructure is appropriate and enables participants to pursue investment opportunities, in response to market signals, in an efficient and timely manner.

The outcomes that are most relevant to the capacity trading related reforms are Streams 2(a), 2(b), 3(b), 3(c) and 3(d).

Work on the design of the reform package commenced in early 2017. Following a detailed consultation process, which included a large number of meetings with industry-based project teams, the GMRG provided its final recommendations to the Energy Council on:

³ COAG Energy Council, Australian Gas Market Vision, December 2014.



- the proposal to accord the Australian Energy Market Operator (AEMO) responsibility for operating and administering the capacity trading platform and the auction, which was approved by the Energy Council at its 14 July 2017 meeting;⁴
- the proposed design of the capacity trading platform, the measures required to facilitate capacity trading and the day-ahead auction, the secondary trading reporting framework and the standard market timetable, which were approved by the Energy Council at its 24 November 2017 meeting;⁵ and
- the proposed design of the day-ahead auction, which was approved by the Energy Council out-of-session on 3 January 2018.⁶

The GMRG also provided its final recommendations to the Energy Council on the timing of the commencement of the reforms, which were that:

- the capacity trading platform and auction should commence on **1 March 2019**; and
- the standard market timetable should commence on **1 October 2019**.

These recommendations were endorsed by the Energy Council on 24 November 2017.

1.1 Draft legal and regulatory framework

Following the Energy Council's approval of the design of the capacity trading reform package, the GMRG, with the assistance of its legal advisor, Johnson Winter & Slattery (JWS), commenced work on the legal and regulatory framework required to give effect to the reforms. This framework includes:

- amendments to the National Gas Law (**NGL**), the regulations made under the NGL (**Regulations**) and the National Gas Rules (**NGR** or **Rules**); and
- the implementation of a new instrument, the Operational Transportation Service Code (**Code**).

On 19 March 2018, the draft legal and regulatory framework and a consultation paper were released for public consultation and stakeholders were provided six weeks to provide feedback on:

- the proposed drafting of the NGL, NGR, Regulations and Code; and
- a number of proposed refinements to the design of various elements of the reform package, which reflected:
 - the outcome of additional work undertaken in early 2018, in conjunction with AEMO and stakeholders on a number of aspects of the design, which was flagged in the final recommendations to the Energy Council; and
 - an enhanced understanding of the operational and contractual environment and the complexities associated with implementing an industry-based panel, arising from additional engagement with stakeholders carried out in early 2018.

Table 1.1 provides an overview of the refinements that were considered as part of the March 2018 consultation process.

⁴ GMRG, Final Recommendations on the Operations and Administration of the Transportation Capacity Trading Platform and Day-Ahead Auction, June 2017.

⁵ GMRG, Final Recommendations on the Capacity Trading Reform Package (Standardisation, capacity trading platform and reporting framework for secondary trades), November 2017.

⁶ GMRG, Final Recommendations on the Design of the Day-Ahead Auction of Contracted but Un-Nominated Capacity, December 2017.

Table 1.1: Refinements to the design of the capacity trading reform package considered in the March 2018 consultation process

Topic	Final recommendations	Proposed refinement to the final recommendations
Refinements to measures to facilitate capacity trading and the auction		
Exemptions framework	<p>The GMRG's final recommendations provided for transportation service providers to obtain exemptions from:</p> <ul style="list-style-type: none"> the obligation to publish a standard OTSA if its facility does not provide third party access, or is used to service a single end-user facility; and the auction if its facility has a nameplate rating less than 10 TJ/day, is not providing third party access, or is servicing a single end-user facility. <p>Following the release of these recommendations, questions were raised about the lack of alignment between the exemption criteria applying to the obligation to publish a standard OTSA and participate in the auction, and the lack of alignment with the criteria in Part 23 of the NGR.</p>	<p>To address the issues raised by stakeholders, the March 2018 consultation paper suggested that exemptions from the auction and the obligation to publish an OTSA be aligned and that:</p> <ul style="list-style-type: none"> automatic exemptions be available to distribution pipelines, the Declared Transmission System (DTS) in Victoria and compression service facilities not used to transport gas between pipelines; and transportation facilities be able to obtain an exemption from the AER if the facility is not providing third party access; the facility has a nameplate rating less than 10 TJ/day, or the facility is servicing a single user (shipper).⁷
Role of the AER in approving amendments to the Code	<p>The GMRG's final recommendations provided for the adoption of a hybrid governance model for the Code, under which:</p> <ul style="list-style-type: none"> an industry-based Panel, chaired by AEMO, would consider changes to the Code and make recommendations to the AER; and the AER would determine whether the changes should be made to the Code, by approving, rejecting or remitting a recommendation from the Panel. <p>Some concerns were subsequently raised about the impact that any impasse within the Panel could have on the market because the Code defines the scope of services that can be procured in the capacity trading platform and the auction.</p>	<p>To address the concerns raised by stakeholders, the March 2018 consultation paper suggested that the AER also be granted the power to modify the Code on its own initiative, following consultation with the Panel, AEMO and other stakeholders.</p>
Governance of zones for trading platform, auction and reporting	<p>The GMRG's final recommendations provided for the industry-based Panel and AER to approve changes to the zones that will be used for the capacity trading platform, auction and reporting framework. Service providers subsequently raised a number of concerns about this proposal and noted their preference for AEMO to carry out this function. This issue was discussed with a number of shippers who indicated that they also thought AEMO was better placed to carry out this role.</p>	<p>To address the concerns raised by service providers, the March 2018 consultation paper suggested AEMO be accorded responsibility for determining zones.</p>

⁷ The alignment of this size threshold with that adopted in the Bulletin Board was chosen in preference to the size threshold adopted in Part 23 of the NGR because alignment with the reporting obligations in the Bulletin Board is more important in this case than alignment with Part 23 of the NGR (i.e. because information published on the Bulletin Board will be important inputs into a shipper's risk assessment). The size threshold in Part 23 was originally going to be aligned with the Bulletin Board size threshold and was only amended in response to feedback from distribution pipelines that they do not typically have a nameplate rating. To overcome this limitation the size threshold for Part 23 was set on the basis of actual flows. This limitation is not present in this case (i.e. because the reforms currently only apply to transmission pipelines), so the 10 TJ/day nameplate rating threshold has been adopted.

Topic	Final recommendations	Proposed refinement to the final recommendations
Approach used to address contractual limitations	The GMRG's final recommendation noted that there may be provisions within facility agreements that prevent or otherwise impede the trade of capacity. The GMRG therefore recommended that provisions requiring standard agreements to overcome these impediments be included in the NGL/NGR to overcome these limitations. Through subsequent discussions with stakeholders, it became clear that they would prefer to amend facility agreements on a case-by-case basis rather than through general provisions in the NGL/NGR.	To address the issues raised by stakeholders, the March 2018 consultation paper suggested that, in response to a request from a shipper, transportation service providers should be required to provide the shipper an amending facility agreement that: <ul style="list-style-type: none"> enables the shipper to sell any spare capacity it may have using an operational transfer; and gives effect to other facilitation of trade principles in the NGR.
Refinements to the auction design		
Scope of transitional firm rights	The GMRG's final recommendations provided for as available and authorised overrun rights to be 'grandfathered' where a transportation service provider would be in breach of existing contractual commitments if it scheduled these services after the auction. Provision was made for this to occur because it was understood a number of gas-fired generators were using these services, but it was noted that as confidence in the auction grew, generators could be expected to make greater use of the auction and the capacity trading platform. This was therefore only proposed as a transitional measure. When this recommendation was made it was understood this transitional measure would only apply to a small subset of as available and overrun rights. However, subsequent discussions with service providers revealed that as drafted, they would seek to rank all or the majority of as available and authorised overrun rights ahead of the auction product, which would be contrary to the policy intent of ranking the auction product immediately behind firm services.	To address the issues raised by service providers, the March 2018 consultation paper suggested that the availability of transitional firm rights be limited to gas-fired generators for up to two years.
Contract path specification for the auction	The GMRG's final recommendation on the design of the auction noted that further work needed to be carried out in early 2018 to determine whether a point-to-point contract path or a zonal approach be used for forward haul and compression auction services. Further work was therefore carried out on this aspect of the design in early 2018 by the GMRG and AEMO. This work revealed that there were limitations with the pure point-to-point and zonal models and that combining elements of the two would yield a more efficient allocation of CBU capacity and mirror the approach used on the capacity trading platform.	Based on the work carried out in early 2018, the March 2018 consultation paper suggested the adoption of a hybrid point-to-point and zonal model that would allow auction participants to bid on a point-to-point basis for any unused capacity at individual receipt or delivery points, but their ability to secure capacity at those points would depend on whether there was sufficient: <ul style="list-style-type: none"> CBU capacity available in the receipt point or delivery point zone they need to use; and CBU capacity along the pipeline segments (or compression service facilities) they need to use.

Topic	Final recommendations	Proposed refinement to the final recommendations
Responsibility for determining the method for calculating the auction quantity limits	<p>At the time the GMRG made its final recommendations on the auction, it was unclear what contract path model would be adopted and, by extension, how the auction quantity limits would be calculated. The final recommendations therefore provided for transportation service providers to develop the methodology used to calculate the auction quantity limits and to have this approved by AEMO. The final recommendations also noted the need for further work to be carried out on this issue in parallel with the work on the contract path model.</p> <p>Through the work that was subsequently carried out on the contract path model, it became clear that determining the auction quantity limits would be relatively mechanical and there would be benefit in having a common and transparent process for calculating auction quantity limits set out in the CT&A Procedures (e.g. to avoid inconsistencies in approach, limit the scope for gaming and enable compliance to be more effectively monitored).</p>	Based on the work carried out in early 2018, the March 2018 consultation paper suggested that the method for determining the calculation of auction quantity limits be prescribed in the CT&A Procedures.
Other refinements		
Transparency of allocation arrangements	The GMRG's final recommendations provided for the contact details of allocation agents to be published on the Bulletin Board. The GMRG also recommended that further work be carried out to determine whether any additional transparency measures were required. This work was carried out in early 2018 in conjunction with industry. In short, this process revealed that, in addition to the allocation agents contact details, the publication of a description of the allocation methodology and the process for joining and leaving the relevant agreement (including any charges payable) would aid market participants considering access to allocation points.	To provide greater transparency about allocation arrangements, the March 2018 consultation paper proposed the publication of information on the allocation methodology and the process for joining and leaving (including any charges for doing so) allocation arrangements on the Bulletin Board.
Transitional arrangements for the standard market timetable	The GMRG's final recommendations on the standard market timetable provided for the standardised times to be implemented by 1 October 2019. Through subsequent discussions with stakeholders, it became apparent that there would be value in implementing transitional arrangements to assist market participants transition to the new gas day start time and, where applicable, the nomination cut-off times.	<p>To assist with the transition to the standard market timetable, the March 2018 consultation paper suggested that transitional rules be included in the NGR to require:</p> <ul style="list-style-type: none"> ▪ AEMO to publish information on the arrangements for transition to the standard gas day in each gas market prior to 1 April 2019; and ▪ facility operators that provide services to third parties to publish information on the operational arrangements to transition to the standard gas day and, where relevant, the standard nomination cut-off times, prior to 30 June 2019.



1.2 Stakeholder feedback on the draft framework

In total, 24 submissions were received in response to the March 2018 consultation paper, 18 of which were from organisations involved directly in the gas supply chain. The remainder were provided by Energy Consumers Australia (ECA), Australian Pipeline and Gas Association (APGA), Chemistry Australia, the Energy Users' Association of Australia (EUAA), the Major Energy Users (MEU) and the Public Interest Advocacy Centre (PIAC).

Table 1.2 provides a snapshot of the feedback these stakeholders provided on the proposed refinements to the design of the capacity trading reform package. In the table, green is used to indicate support for the proposed refinement, red is used to indicate opposition to the proposed refinement, orange is used to indicate a position in between these points and grey is used in those cases where stakeholders did not express a view.

As the table shows, most of the proposed refinements were supported by stakeholders. Concerns were, however, raised by a number of stakeholders about the following:

- **The proposed exemptions framework:** While most stakeholders supported the proposed exemption categories, a number of service providers were of the view that the 10 TJ/day threshold was too low. A number of consumer and user representatives, on the other hand, were of the view that distribution pipelines, transportation facilities with a nameplate rating less than 10 TJ/day and facilities servicing a single user (shipper) should be subject to the reforms. This group of stakeholders was particularly concerned about the potential for smaller transportation facilities and retailers on single user facilities to exercise market power.

A number of stakeholders also noted the proposed definition of compression services may not capture all the facilities it is intended to and suggested an alternative approach be adopted. One stakeholder also noted that while the DTS is excluded from the reforms, all the compression service facilities used in the transportation of gas from the DTS to other pipelines should be included.

- **The proposal to allow certain rights held by gas-fired generators to rank ahead of the auction product for up to two years ('transitional firm rights'):** Mixed views were expressed about transitional firm rights, with a number of stakeholders opposed to their inclusion (i.e. because it reduces the amount of capacity released in the auction), while others supported their inclusion. Most of the stakeholders that supported their inclusion accepted the proposal to limit the transitional firm rights to those used by gas-fired generators, although two suggested the rights should be available to all users. The term of the transitional firm rights was also subject to debate, with some suggesting a one to two-year term was appropriate, while others thought they should be available indefinitely or subject to extension following a review once the rules are implemented.
- **The proposal to allow the AER to amend the Code:** Although most stakeholders recognised the need for the AER to have this power, a number were concerned that it could be used to bypass the Panel. This group of stakeholders were therefore of the view that the AER should exercise some caution when using this power and be required to consult with interested parties (including consumers) before doing so.
- **The proposal to require AEMO to determine the zones used for the capacity trading platform, auction and reporting framework:** The majority of shippers,



consumer and user groups supported this proposal but noted that before making a determination, AEMO should be required to consult with interested parties. A number of service providers, on the other hand, were of the view that they should be accorded responsibility for determining the zones on their transportation facilities.

- **The proposal to utilise the hybrid point-to-point / zonal contract path model in the day-ahead auction:** Most stakeholders agreed that the hybrid model, which mirrors the approach used in the capacity trading platform, would yield the most efficient allocation of CBU capacity. However, one stakeholder suggested it went beyond the original recommendations because it allowed shippers to access 'unused' capacity at individual receipt and delivery points, rather than being restricted to CBU capacity at those points.

Concerns were also raised by a number of stakeholders about the following matters:

- **AEMO's powers under the new framework.** A number of service providers raised concerns about the breadth of AEMO's powers under the legal and regulatory framework and noted that further guidance should be provided in the NGR on how AEMO is to exercise some of those powers.
- **The resources available to the AER to carry out its new functions:** A number of consumer and user representatives noted that the AER is expected to play a critical role in monitoring the compliance of service providers and other market participants with the reforms and stressed the importance of the AER being adequately resourced to do so. A number of stakeholders also suggested that the AER be accorded responsibility for undertaking the following transitional roles:
 - conducting a review of transportation service providers' standard OTSAs and their standardisation costs and charges within 6-12 months of the reforms being implemented to ensure that they comply with the relevant provisions in the NGR and Code; and
 - determining, in response to an application by a gas-fired generator (or supplier to a gas-fired generator), whether its transportation services are capable of being treated as a transitional firm right for the purposes of the auction.
- **The proposed timing of the reforms and obligations:** A small number of stakeholders suggested that, rather than implementing the auction and capacity trading platform on 1 March 2019, a staged approach to implementation be adopted, by either delaying the commencement of the auction or only applying the auction to select routes and services. Some stakeholders also noted the need for more time to comply with a number of obligations and questioned when a facility would become subject to the auction if an exemption is revoked.
- **The liabilities service providers may be exposed to when implementing the harmonised times and the auction:** A number of service providers noted that the requirement in the NGL and NGR to implement the harmonised times and the auction priority and scheduling principles, may result in a breach of their existing contractual obligations. It was therefore suggested that a number of immunity provisions be included in the NGL.

Table 1.2: Snapshot of stakeholder feedback

			Service Providers (SP)							Shippers and Prospective Shippers										Consumer and user representatives				
GMRG's Proposed Refinement			APGA	AGIG	APA	Epic	GPV	Jemena	Palisade	AGL	Alinta	Energy Australia	ERM Power	Origin	PWC	Snowy Hydro	APLNG	GLNG	Shell	ECA	Chemistry Australia	EUAA	MEU	PIAC
Measures to facilitate capacity trading and the auction	Exemptions from the obligation to publish a standard OTSA, the day-ahead auction	Automatic exemptions should be available to:																						
		*the DTS and compression facilities not used to transport gas between transmission pipelines																						
		Other transportation facilities should be able to obtain an exemption if the facility:																						
		* is not providing third party access																						
		* is servicing a single user (shipper)																						
Measures to facilitate capacity trading and the auction		* has nameplate capacity rating < 10 TJ/day	Limit too low					Limit too low		Limit too low										Limit too high				
	AER's powers in relation to the Code	The AER should have the power to modify the Code on its own initiative, following consultation with the Code Panel.	Not a standard AER role					β		β				β						Noted potential for conflict with the AER's compliance role				β
	Governance model for zones, service points and pipeline segments	AEMO should be responsible for determining the zones, service points and pipeline segments to be used for the capacity trading platform and day-ahead auction in accordance with principles specified in the NGR	SPs should determine zones					SPs should determine zones		β			β	β			β	β		β	β	β		
	Approach used to address contractual limitations on capacity trading	Provisions should be included in the NGR that will require service providers, within 30 days of receiving a request from a shipper, to provide the shipper an amending agreement that gives effect to principles specified in the NGR						SPs require more time to respond									SPs require more time to respond							
Day-ahead auction	Scope of grandfathered rights	Transitional arrangements should be put in place to treat certain transportation rights held by gas fired generators when used at their generation site as 'firm' transportation rights for the purposes of calculating the auction quantity limits and determining the auction service priorities.						**						#										
		The transitional arrangements should be available for 2 years and only apply to rights acquired under a primary facility agreement on or before 3 January 2018	Period should be reviewed post implementation and potentially extended										Period should be reviewed post implementation and potentially extended	Rights should not be recognised					12 mths appropriate					
	Contract path model	Forward haul and compression services should be sold using a hybrid point-to-point-zonal model																						
	Responsibility for developing method for calculating auction quantities	The method used to calculate the auction quantity limits should be determined by AEMO in accordance with provisions in the NGR and specified in the Capacity Transfer and Auction Procedures, rather than being developed by service providers.						δ																
Other	Measures to improve the transparency of allocation arrangements	Allocation agents should be required to report the following information on the Bulletin Board: * a description of the allocation methodology * a description of the process for joining and leaving the arrangement and any charges payable * the allocation agent's contact details			α								§											
	Transitional arrangements to facilitate the harmonisation of gas day times	To facilitate the transition to the harmonised gas day times: * AEMO should publish information on the arrangements it will implement to transition to the standard gas day in each gas market it operates by 1 April 2019 * facility operators servicing third parties should publish information about the arrangements they will put in place to transition to the standardised times by 30 June 2019.						AEMO should determine publication date of information for facility operators											@					

Notes:

- # Origin noted that limiting the availability of grandfathered rights may be difficult to implement from an operational and compliance perspective, so suggested that all as available and authorised overruns be grandfathered.
- ** Jemena was of the view that grandfathering should not be limited to gas fired generators and that all as available and authorised overrun rights should be grandfathered
- α The outcomes based approach was described as allowing for cost recovery where a service provider can demonstrate compliance with the objectives of the regulatory framework, rather than input costs.
- β These stakeholders all made clear that they expected AEMO and the AER to consult with interested parties before making any determination
- § Alinta suggested information about allocation arrangements should also apply to injection and withdrawal points in the Victorian DTS
- @ Shell was concerned about what would occur when parties could not agree and why the information is required to be provided to AEMO. Shell also requested that the language around third party access aligned with Part 24.
- >> APLNG and GLNG wanted exemptions in Part 23 and Part 24 to be consistent
- α Subject to the caveat that there is a written agreement in place
- δ Subject to caveat that SPs calculate auction quantity limits



In addition to this feedback, stakeholders provided extensive feedback on the proposed drafting of the NGL, Regulations, NGR and the Code. A number of stakeholders also suggested that a post-implementation review of the effectiveness of the reforms be carried out and, as part of this review, consideration be given to whether any further refinements to the design of the day-ahead auction may be required. Several consumer and user representatives noted that in carrying out such a review careful consideration should be given to how end-users and consumers would benefit from the reforms.

Further detail on the feedback provided by stakeholders and the GMRG's response to this feedback is provided in **Appendix A**.

1.3 Final legal and regulatory framework

Having regard to the feedback provided by stakeholders, the GMRG developed its final recommendations on the following matters for Energy Council consideration and approval in June 2018:

- the proposed refinements to the design of the capacity trading reform package (see Table 1.3 for a summary of the GMRG's final recommendations); and
- the legal and regulatory framework required to give effect to the reform package.

The GMRG's final recommendations were approved by the Energy Council out of session on 29 June 2018. The Energy Council also agreed at this time that the Senior Committee of Officials (SCO) would conduct a review of the capacity trading reforms two years following implementation. This review will be informed by the AEMC's biennial review into the growth in liquidity in wholesale gas and pipeline trading markets, which is due to be completed in mid-2020.

The key elements of the final legal and regulatory framework that were approved by the Energy Council are depicted in Figure 1.1. As this figure shows, the legal and regulatory framework includes a number of transitional provisions in the NGL (Schedule 3) and NGR (Schedule 5) that are designed to assist market participants, AEMO and the AER with the transition to the new framework.

Where appropriate, the legal and regulatory framework also incorporates stakeholder feedback received on the drafting of specific provisions in the NGL, Regulations and NGR, which are intended to provide market participants with:

- greater clarity about their rights and obligations under the various elements of the capacity trading reform package; and
- greater confidence in the capacity trading platform and day-ahead auction by providing for greater levels of transparency, stakeholder consultation and oversight by the AER.

The key changes that have been made to the framework to reflect stakeholder feedback are set out in Box 1.2.

Figure 1.1: Final legal and regulatory framework for the capacity trading reform package

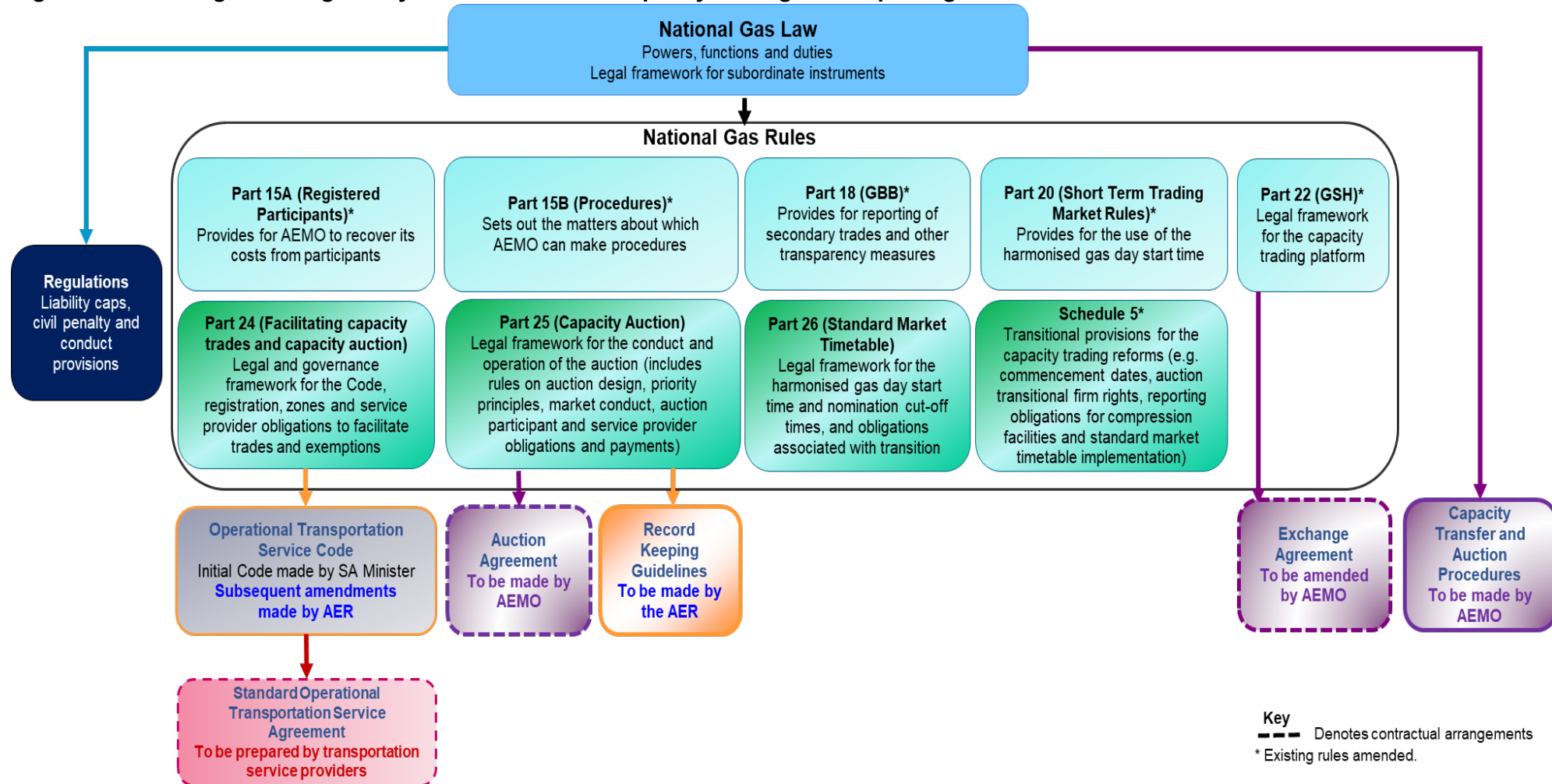


Table 1.3: Refinements to the design of the capacity trading reform package

Topic	Refinement
Refinements to measures to facilitate capacity trading and the auction	
Exemptions framework	<p>The capacity trading reform package provides for the following:</p> <ul style="list-style-type: none"> Exemptions from all aspects of the capacity trading reform package (excluding the secondary capacity reporting framework and the standard market timetable) to be: <ul style="list-style-type: none"> automatically available to distribution pipelines, a facility that forms part of the DTS and compression service facilities that are not designated in the Regulations⁸ (i.e. certain compression service facilities at Wallumbilla, Moomba, Iona and Ballera), or are not stand-alone compression facilities; and available on application to the AER, to facilities that are not providing third party access. Exemptions from the auction and the obligation to publish a standard OTSA to be available to facilities with a nameplate rating less than 10 TJ/day or that are servicing a single transportation user (shipper). The exemption from the obligation to publish a standard OTSA in these cases does not extend to the obligation to develop and offer to enter into a standard OTSA if requested to do so by a shipper, or a number of other measures to facilitate capacity trading, which is why they are referred to as conditionally exempt facilities in the legal and regulatory framework.⁹ <p>The GMRG recommended this approach because it is consistent with the overarching objectives of the capacity trading reform package and strikes an appropriate balance between the costs that are likely to be incurred by transportation service providers and the benefits of the capacity trading reforms that are likely to be experienced, particularly in the early stages of the market's development. The GMRG also noted though that there would be value in any post implementation review considering the feasibility and the costs and benefits of extending the coverage of the reforms to include distribution pipelines and facilities with a nameplate rating less than 10 TJ/day, as proposed by a number of consumer and user representatives.</p>
Role of the AER in approving amendments to the Code	<p>The capacity trading reform package provides for the AER to approve, remit or reject recommendations made by the Panel and to amend the Code on its own initiative, following consultation with the Panel, AEMO and other interested parties. Allowing the AER to make amendments on its own initiative is not intended to circumvent the Panel. Rather, it is to provide the Panel with an additional incentive to work effectively and ensure that any impasse within the Panel does not adversely affect the development of the secondary capacity market and the day-ahead auction. As a number of stakeholders pointed out, it will be important that, when exercising this power, the AER consult with stakeholders. Part 24 of the NGR provides for this to occur and also allows the AER to seek the advice of consumer and industry representatives.</p> <p>The GMRG recommended this refinement because it provides an appropriate balance between ensuring that market participants, through the Panel, have a central role in the development of the Code, and allowing the AER, as regulator, to ensure the Code is operating as intended and continues to promote the NGR and the Code objective, which is to provide for access to operational transportation services on reasonable terms (which is taken to mean at prices and on other terms and conditions that, so far as practical, reflect the outcomes of a workably competitive market).</p>

⁸ The facilities have been designated in the Regulations to overcome the difficulties associated with defining the facilities that are intended to be subject to the reforms from commencement. The application of the reforms to other stand-alone compression facilities that satisfy the relevant criteria in the NGL and NGR will be assessed using the exemptions framework in the NGR.

⁹ For example, the obligation to give effect to operational transfers and to comply with the standardisation cost recovery principles.

Topic	Refinement
Governance of zones for trading platform, auction and reporting	<p>The capacity trading reform package provides for:</p> <ul style="list-style-type: none"> ▪ AEMO to be accorded responsibility for determining zones and, when doing so, to have regard to any matter relevant to that determination including: <ul style="list-style-type: none"> – the impact of the proposed zone on trade in products offered through the exchange or the capacity auction including on demand or liquidity; – possible curtailment of capacity released for transfer from one service point in the zone when nominated for use at another service point in the zone, whether over time or at particular times or in particular conditions; and – the technical or operational characteristics of the facility; ▪ AEMO to consult with interested parties before making a determination; and ▪ transportation service providers to provide AEMO with the information it reasonably requires to make its determination. <p>The GMRG recommended this refinement because it enables the market and operational trade-offs associated with defining zones to be effectively balanced, which benefits all market participants and contribute to the NGO by promoting the efficient use of and investment in facilities subject to the reforms.</p>
Approach used to address contractual limitations	<p>The capacity trading reform package provides for contractual limitations on capacity trading in existing facility agreements to be addressed through the inclusion of provisions in the NGR that allow facility agreements to be amended on a case-by-case basis and that:</p> <ul style="list-style-type: none"> ▪ require transportation service providers within 30 business days of receiving a request from a shipper (or 45 business days during the transitional period), to provide an amending agreement that enables the shipper to sell any spare capacity it may have through an operational transfer and to give effect to other principles specified in the NGR; ▪ require transportation service providers and shippers to negotiate in good faith when amending the agreement; and ▪ enable any dispute about the terms of the amending agreement to be referred for determination by an expert. <p>The NGR also requires any new facility agreements entered into after the commencement of the reforms to allow the shipper to sell capacity through an operational transfer and to give effect to the facilitation of trade principles.</p> <p>The GMRG recommended these refinements to overcome the limitations on capacity trading that could otherwise prevent or impede trade in a more effective and efficient manner than the original proposal and provide shippers adequate protection in the event of a dispute.</p>
Refinements to the auction design	
Scope of transitional firm rights	<p>The auction includes transitional arrangements that enable transportation rights that were acquired on or before 19 March 2018¹⁰ that are used to transport gas to a gas-fired generation site and are currently treated as firm once scheduled (e.g. as available and some authorised overrun services), to rank ahead of the auction product for up to two years following commencement of the auction ('transitional firm' rights). The GMRG recommended grandfathering these rights to provide for a more orderly transition to the new arrangements by gas-fired generators (which is of particular importance given the conditions currently prevailing in the NEM), which will promote the NGO.</p> <p>In relation to the proposed term of the transitional arrangements, the GMRG was of the view that a two-year transitional period provides gas-fired generators sufficient time to transition to the new arrangements. The GMRG did not therefore recommended an extension beyond this time, as some stakeholders have suggested. Nor does it support a review of the transitional period once the reform package is in place, because this could discourage gas-fired generators from making the transition and have longer-term implications for the success of these reforms.</p>

¹⁰ This is the date the draft legal and regulatory framework was released for public consultation.



Topic	Refinement
Contract path specification for the auction	<p>The auction uses the hybrid point-to-point and zonal contract path model for forward haul and compression auction services. In contrast to the other models that were considered, the hybrid model yields a more efficient allocation of capacity because, in a similar manner to the capacity trading platform, it allows CBU capacity from individual points to be moved to other points within the zone if there is unused capacity at those points and sufficient pipeline segment (or compression service facility) CBU. It also overcomes the delivery risk associated with other models, because when a shipper wins capacity it knows it has secured capacity at the points it requires.</p> <p>The GMRG recommended this model because it is more consistent with the NGO than the other options. It is also consistent with the AEMC's original recommendations, because while this model allows auction participants to use uncontracted capacity at individual receipt and delivery points, their ability to do so is constrained by the availability of CBU capacity in the zone and pipeline segment (or compression service facility). The amount of capacity released in the auction is therefore capped by the amount of CBU capacity.</p>
Responsibility for determining the method for calculating the auction quantity limits	<p>The capacity trading reform package provides for:</p> <ul style="list-style-type: none"> ▪ AEMO to determine the methodology to be used to calculate the auction quantity limits in accordance with principles set out in the NGR; and ▪ the methodology to be prescribed in the Capacity Transfer and Auction Procedures (CT&A Procedures). <p>The GMRG recommended this refinement because it will ensure the auction quantity limits are calculated in a consistent and transparent manner, which limits the scope for gaming by transportation service providers and enable compliance with the methodology to be more effectively monitored by the AER.</p>
Other refinements	
Transparency of allocation arrangements	<p>The capacity trading reform package provides for allocation agents to provide the following information to AEMO for publication on the Bulletin Board: the allocation agent's contact details; a description of the allocation methodology used at the allocation point; and a description of the process for joining and leaving the relevant agreement and any charges payable. The GMRG recommended this refinement because it will reduce search and transaction costs and the barriers to trade.</p>
Transitional arrangements for the implementation of the standard market timetable	<p>The capacity trading reform package provides for:</p> <ul style="list-style-type: none"> ▪ AEMO to publish information on the arrangements for the transition to the standard gas day in each of the gas markets it operates (the Short Term Trading Market (STTM), Declared Wholesale Gas Market (DWGM), Gas Supply Hub and retail markets) prior to 1 April 2019. ▪ Facility operators that provide services to third parties to publish information on the operational arrangements to transition to the standard gas day and standard nomination cut-off times by the earlier of 30 June 2019 and 20 business days before they implement the new gas day. <p>Transitional provisions have also been included in the legal and regulatory framework to:</p> <ul style="list-style-type: none"> ▪ require parties to negotiate in good faith if amendments to contracts are required to implement the new times and include a dispute resolution mechanism that parties can have recourse to if agreement cannot be reached; and ▪ provide those parties that are required to give effect to the standard market timetable an immunity from civil monetary liability that may otherwise arise from use of this timetable. <p>The GMRG recommended this refinement to facilitate an orderly transition to the standard market timetable.</p>



Box 1.2: Changes to legal and regulatory framework to reflect stakeholder feedback

The key amendments that have been made to the draft legal and regulatory framework to provide greater clarity about the rights and obligations of market participants and greater confidence in the trading platform and auction are as follows:

- **Capacity trading platform provisions:** These provisions have been amended to:
 - Clarify that there is to be no short selling of capacity in the capacity trading platform.
 - Specify the method for calculating the price to be paid to transportation service providers if a primary facility agreement is terminated and a trade is kept on foot.
- **Auction provisions:** These provisions have been amended to:
 - Provide transportation service providers a transitional immunity from civil monetary liability that may otherwise arise as a result of releasing contracted capacity into the auction, or giving effect to the auction priority principles and scheduling requirements in the NGR.
 - Provide market participants with greater confidence in the process for the classification and use of transitional firm rights by:
 - Enabling auction facility operators to classify a transportation service used to supply a gas-fired generator as a transitional firm right for the purposes of the auction if it meets the criteria in the transitional rules. Classification will be subject to review by the AER.
 - Providing for the AER to monitor compliance with the conditions of use of these rights (e.g. that they must be used to transport gas to a gas-fired generation site).
 - Require information on the amount of grandfathered rights used each day to be reported on the Bulletin Board after the gas day.
 - Require transportation service providers to report any curtailment of auction services on the Bulletin Board as soon as reasonably practicable.
 - Clarify that transportation service providers are responsible for determining their facility's operational capacity, capacity shortfalls and auction quantities limits (subject to the provisions in the NGR and CT&A Procedures).
 - Prohibit auction facility operators from directly or indirectly bidding for capacity on their facility, or engaging in conduct with the intent of distorting or manipulating auction prices.
 - Clarify the circumstances in which shippers must keep renomination records.
- **Measures to facilitate trade and the auction:** These provisions have been amended to:
 - Require the AER to consult with interested parties before exercising its power to amend the Code on its own initiative and allow the Panel and AER to seek the advice of consumer and industry representative bodies, where it is appropriate to do so.
 - Require AEMO to consult with interested parties before making a determination on zones and simplify the principles it is to consider when making a determination. The principles now include the facility's technical or operational characteristics.
 - Require the AER to review service providers' standard OTSAs and standardisation charges against the Code and the NGR, within the first 12 months of the trading platform and auction commencing.
 - Require transportation service providers and shippers to negotiate in good faith if an amendment to the shipper's existing facility agreement is required to enable capacity to be sold and include a dispute resolution mechanism in the NGR that parties may rely on if negotiations fail.
- **Transparency provisions:** These provisions have been amended to:
 - Simplify the reporting arrangements for secondary trades and allow reporting of capacity transactions on non-standard terms to be reported using reasonable approximations.
 - Exclude related party transactions from being reported.
- **Standard market timetable:** These provisions have been amended to:
 - Specify the nomination cut-off time for auction services.
 - Require parties to negotiate in good faith if amendments to contracts are required to implement the standard market timetable and include a dispute resolution mechanism that parties may rely on if negotiations fail. Those required to implement the timetable will also have a transitional immunity from civil monetary liability that may otherwise arise from the use of the timetable.
- **Timings for obligations:** These provisions have been amended to provide service providers more time to prepare and offer a standard OTSA and new facilities to be subject to the auction.

1.4 Consistency of the reform package with the NGO

In developing the final design of the capacity trading reform package and the legal and regulatory framework, the GMRG applied the rule making test¹¹ that the AEMC is required to consider when exercising its rule making functions. This test requires consideration to be given to whether the change will or is likely to contribute to the achievement of the NGO (see Box 1.1). The assessment has been carried out qualitatively having regard to whether they are consistent with:

- the objectives of the capacity trading reform package, which were described by the AEMC as being to improve the efficiency with which transportation capacity is allocated and used and to foster the development of a more liquid market for secondary capacity;¹² and
- the Energy Council's Vision of the direction gas market development should take to meet the NGO and the outcomes the Energy Council agreed to pursue in the next phase of gas market reform (see Box 1.1).¹³

Consistent with the overarching objectives of the capacity trading reforms, the final design of the reform package is expected to improve the efficiency with which capacity is allocated and used and foster the development of a more liquid secondary market, in the following ways:

- **Capacity trading platform:** This element of the reform package will facilitate a greater level of capacity trading by:
 - making capacity products more fungible through the standardisation of exchange traded services and terms and conditions on which those services can be used;
 - incorporating the trading platform into the GSH, which is easy to use, enables quick and effective execution of trades, provides certainty of outcomes, effectively manages financial and delivery default risks and provides for the aggregation of prudential requirements across products;
 - allowing shippers to readily co-ordinate trades across transportation facilities and to procure gas and other gas services through a single platform;
 - using the zonal model with secondary firm rights at individual service points to facilitate competition for the provision and use of secondary capacity;
 - reducing the search and transaction costs associated with procuring secondary capacity and aiding the price discovery process; and
 - instilling confidence in the secondary market through the use of robust delivery, settlement, credit, curtailment and other risk management processes and governance arrangements.

¹¹ See sections 291-293 of the NGL.

¹² AEMC, Stage 2 Final Report: East Coast Review, 23 May 2016, pp. 67-69.

¹³ COAG Energy Council, Australian Gas Market Vision, December 2014.



- **Day-ahead auction:** This element of the reform package will:
 - improve the incentives firm capacity holders have to sell any spare capacity they may have prior to nomination cut-off time by allowing transportation service providers, rather than shippers, to obtain the proceeds of the auction;
 - limit the ability of transportation service providers to set the price of day-ahead capacity above the levels that would be expected in a workably competitive market by adopting a zero reserve price and allowing the market to determine the value of this capacity;
 - provide shippers with greater flexibility to co-ordinate their day-ahead capacity requirements through the inclusion of forward haul, backhaul and compression services in the auction and the use of a market wide partial combinatorial auction;
 - reduce the search and transaction costs associated with procuring day-ahead capacity and aid the price discovery process for capacity; and
 - instil confidence in the day-ahead auction through the use of robust delivery, settlement, credit, curtailment and other risk management processes and governance arrangements.
- **Measures to facilitate capacity trading and the day-ahead auction:** This element of the reform package will:
 - provide shippers with access to secondary and auctioned capacity on reasonable terms by requiring transportation service providers to develop standard OTSAs that comply with the Code and the NGR and, subject to some limitations, offer to enter into these agreements with secondary shippers if requested to do so;
 - remove other impediments to trade, including restraints on capacity trading and restrictions on receipt and delivery point flexibility;
 - reduce the search and transaction costs associated with procuring secondary capacity and auctioned capacity; and
 - instil a greater level of confidence in the market through the implementation of robust governance arrangements and allowing industry to be involved in the ongoing development of the Code.
- **Reporting framework for capacity trades and other transparency measures:** This element of the reform package will aid the price discovery process, reduce search and transaction costs and allow shippers to make more informed decisions about their use of capacity through the publication of information on:
 - the prices and other key terms struck in secondary capacity trades shortly after they are entered into;
 - the auction results and a range of other auction related information;
 - a range of operational metrics that will enable users of the capacity trading platform and day-ahead auction to understand the risks associated with products procured through these mechanisms; and
 - allocation arrangements at service points on non-exempt transportation facilities and system injection and system withdrawal points in the DTS (excluding points at which the allocations are determined under Retail Market Procedures).



- **Standard market timetable:** This element of the reform package will:
 - reduce the costs and complexities that market participants operating (or wishing to operate) across multiple jurisdictions currently face, including facility operators located at the interface of jurisdictions with different gas day start times;
 - increase the interoperability and interconnection between the facilitated markets and, in so doing, promote participation and liquidity in these markets and trade between locations; and
 - provide for an orderly transition to the harmonised gas day times in affected jurisdictions.

From an economic efficiency perspective, the final design of the reform package can also be expected to give rise to:

- significant allocative efficiencies by making secondary capacity and day-ahead forward haul, backhaul and compression capacity available at market determined prices and by enabling this capacity to be allocated to those that value it most through market based mechanisms; and
- dynamic efficiency gains by discouraging inefficient over-contracting and over-building on those pipelines and compressors included in the auction.

The reform package can therefore be expected to improve the efficiency with which secondary capacity is allocated and used, which will, in turn, promote efficient investment in, and the efficient operation and use of, natural gas services, the ultimate beneficiaries of which will be consumers of natural gas. This is consistent with the overarching objective of the capacity trading reform package and the NGO. It is also consistent with the Energy Council's *Vision* of the direction gas market development should take (in particular, outcomes 2(a), 2(b), 3(b), 3(c) and 3(d) - see Box 1.1).

At a more practical level, the reform package is fit for purpose and reflects the operational and technical requirements necessary for the safe and reliable operation of the transportation facilities that will be subject to the reforms. The proposed framework also strikes an appropriate balance between the legitimate business interests of transportation service providers, and other parties that have rights to use transportation services, including primary and secondary capacity holders.

1.5 Application of the reforms

The Energy Council has agreed that the reform package will initially apply in the Australian Capital Territory, New South Wales, Queensland, South Australia, Tasmania and Victoria (outside the DTS). In relation to other jurisdictions:

- the Energy Council has agreed, at the request of the NT Government, to:¹⁴
 - implement a derogation that will delay the application of the day-ahead auction to transportation facilities located wholly or partly in the NT; and

¹⁴ Further detail on the derogation can be found in the Senior Committee of Officials' Bulletin dated 3 July 2018.
<http://www.coagenergycouncil.gov.au/publications/capacity-trading-reform-package-legal-and-regulatory-framework>



- apply all other aspects of the capacity trading reform package in the NT once the Northern Gas Pipeline (NGP) is commissioned.
- the Energy Council intends to direct the AEMC to conduct a review in 2020 (at the earliest) into whether the reforms should apply in Western Australia.

On 2 August 2018 the *National Gas (South Australia) (Capacity Trading and Auctions) Amendment Bill 2018 (Amendment Bill)* was tabled in the South Australian Parliament. The *Amendment Bill* passed the South Australian House of Assembly on 5 September 2018 and the South Australian Legislative Council on 25 October 2018. The Act was proclaimed on 22 November 2018 and became operational in the jurisdictions outlined above on proclamation. Following the proclamation of the changes to the NGL, the required amendments to the Regulations and the NGR were made, along with the initial Code. These instruments came into effect on 22 November 2018.

1.6 Next steps

The table below sets out the key dates for the implementation of other elements of the legal and regulatory framework.

Table 1.4: Key implementation dates

Date	Responsibility	Process
On or before 1 December 2018	AEMO	AEMO to make the CT&A Procedures and auction agreement and amend the exchange agreement and other AEMO-made Procedures. AEMO to make determination on the zones to be used for the capacity trading platform and auction and publish the transportation service point register.
On or before 1 December 2018	AER	AER to publish the record keeping guidelines that will apply to auction facility operators and users of auction facilities.
1 March 2019	AEMO and service providers	Capacity trading platform and day-ahead auction commence.
On or before 1 April 2019	AEMO	AEMO to publish information on the arrangements for transition to the standard gas day in each gas market and update relevant Procedures.
1 October 2019	AEMO and facility operators	Standard market timetable commences.
1 March 2020	AER	AER to complete its review of transportation service providers' standard OTSAs and standardisation costs and charges.

1.7 Structure of the explanatory note

The remainder of this explanatory note is structured as follows:

- Chapter 2 contains further detail on the capacity trading reform package and how trade is expected to occur once the reform package is implemented;
- Chapter 3 sets out the key elements of the final legal and regulatory framework, the governance arrangements and the new functions and powers that the AEMC, AEMO and the AER will have under the reform package;
- Chapter 4 provides an overview of the exemption and registration frameworks that will apply to transportation facilities;



- Chapters 5-9 provide further detail on the design of each element of the reform package and an overview of the legal instruments that have been amended or implemented to give effect to the approved design;
- Chapter 10 outlines the timings associated with the various obligations that transportation service providers and other market participants will have under the new legal and regulatory framework; and
- Appendix A provides an overview of the feedback provided by stakeholders in response to the March 2018 consultation paper on the draft legal and regulatory framework and the GMRG's responses to this feedback.

This explanatory note should be read in conjunction with the GMRG's final recommendations on the design of the capacity trading reform package, which are set out in the following documents published by the GMRG:

- Final Recommendations on the Operations and Administration of the Transportation Capacity Trading Platform and Day-Ahead Action, June 2017;
- Final Recommendations on the Capacity Trading Reform Package (Standardisation, capacity trading platform and reporting framework for secondary trades), November 2017; and
- Final Recommendations on the Design of the Day-Ahead Auction of Contracted but Un-Nominated Capacity, December 2017.

The explanatory note should also be read in conjunction with the list of the key terms used in the legal and regulatory framework (see pages iii-viii). For the purposes of this explanatory note, the following terms are used interchangeably:

- the term 'service provider' is used interchangeably with 'transportation service provider'; and
- the term 'shipper' is used to refer to an existing or prospective primary shipper and/or secondary shipper (as appropriate) and is used interchangeably with the term 'user' or 'transportation facility user'; and



2. Overview of the capacity trading reform package

The capacity trading reform package was recommended by the AEMC in the *East Coast Review* in 2015-16. The objective of this reform package is to improve the efficiency with which transportation capacity is allocated and used on transmission pipelines and compression service facilities operating under the contract carriage model and to foster the development of a more liquid market for secondary capacity.¹⁵ The remainder of this chapter provides further detail on:

- the key elements of the capacity trading reform package; and
- how shippers will be able to procure capacity once the capacity trading reform package is implemented.

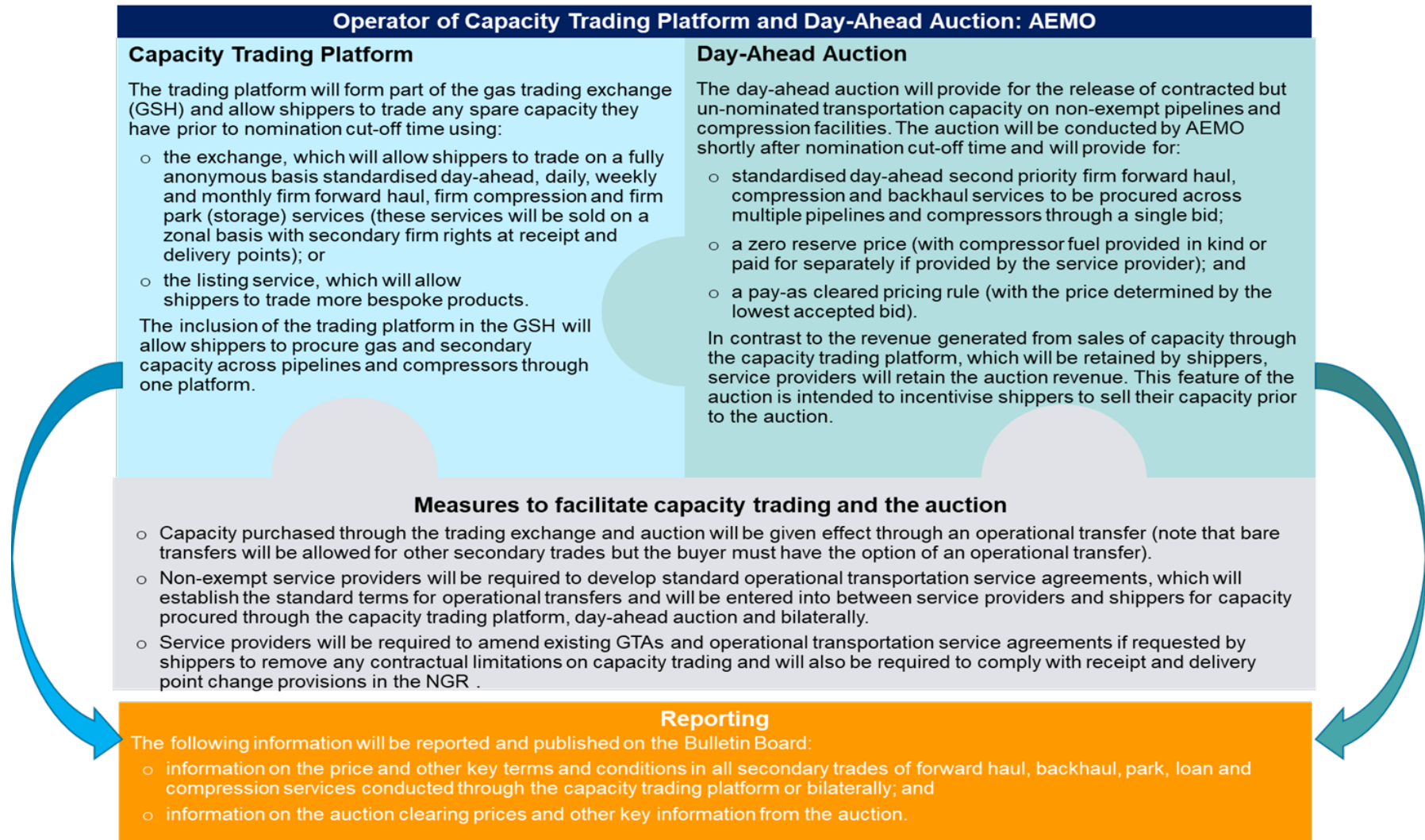
2.1 Key elements of the reform package

Figure 2.1 provides an overview of the key elements of the capacity trading reform package. As this figure highlights, the capacity trading reform package provides for:

- **A capacity trading platform** that will form part of the GSH and enable shippers to trade secondary capacity prior to the close of trade on gas day D-1 (i.e. the day before gas is due to be transported), using either the exchange or a listing service.
- **A day-ahead auction** of CBU capacity that will be conducted by AEMO shortly after nomination cut-off time on gas day D-1 and subject to a reserve price of zero.
- **A number of measures to facilitate capacity trading and the auction**, including a requirement for transportation service providers to prepare and offer to enter into a standard OTSA with prospective secondary shippers and to comply with transaction support arrangements and a range of other measures to facilitate capacity trades and the auction.
- **A reporting framework** for secondary capacity trades that will provide for the publication of the price and other related information on secondary trades on the Bulletin Board. Information on a range of other matters relating to the trade of capacity and the auction will also be published on the Bulletin Board.
- **A standard market timetable**, which will provide for:
 - a harmonised gas day start time of 6 am (AEST) for production, transportation and gas storage facilities and the facilitated markets;
 - a common nomination cut-off time of 3 pm (AEST) for transportation facilities that are subject to the capacity trading reforms; and
 - an auction service nomination cut-off time of 6:45 pm (AEST) for transportation facilities that are subject to the day-ahead auction.

¹⁵ AEMC, Stage 2 Final Report: East Coast Review, 23 May 2016, pp. 67, 73 and 83.

Figure 2.1: Key elements of the reform package

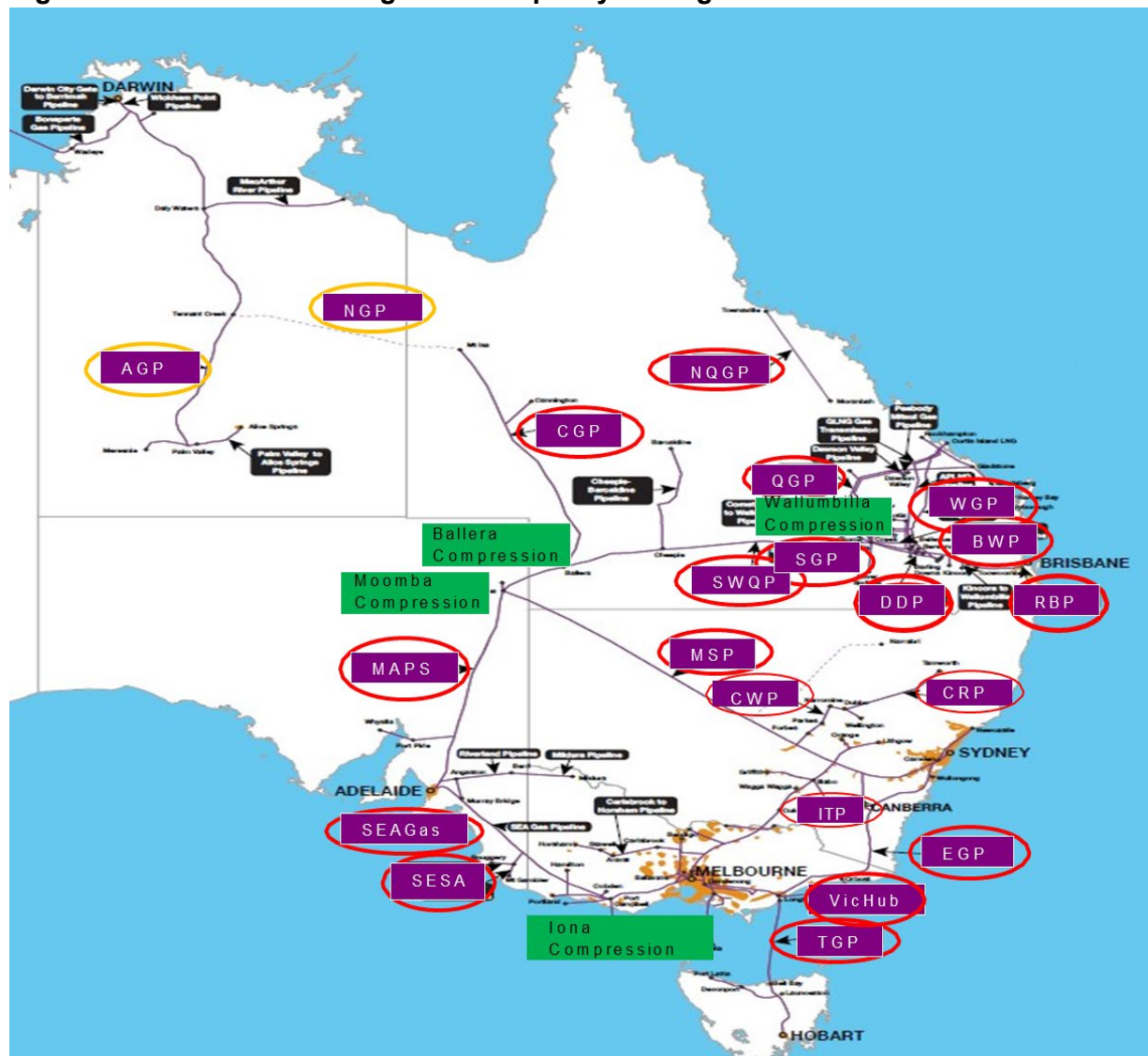


The map below provides an *indication* of the initial coverage of the capacity trading reforms and identifies those facilities located wholly or partly in the NT that, by virtue of the operation of the derogation, will not be subject to the auction until the derogation expires (see facilities circled in yellow). The map, which has been developed having regard to information provided by transportation service providers, excludes those transportation facilities that are expected to:

- be automatically exempt from the reforms (i.e. distribution pipelines, a facility that forms part of the DTS and compression service facilities that are not designated in the Regulations or are not stand-alone compression facilities); or
- obtain an exemption from some or all of the reforms (excluding the standard market timetable and the secondary reporting framework).

The term ‘indication’ has been italicised above, because a final decision on the application of the exemption criteria will be a matter for the AER.

Figure 2.2: Indicative coverage of the capacity trading reforms



Map source: AEMC with facilities identified by the GMRG.



2.2 How capacity can be procured under the new framework

Once the reform package is implemented, shippers that want to procure secondary capacity will be able to do so using either:¹⁶

- the capacity trading platform – the platform can be used to:
 - buy standardised day-ahead and longer dated firm forward haul, park and compression services (i.e. screen trading or pre-matched trades); or
 - identify potential counterparties for more bespoke contracts or services through the listing service.
- the day-ahead auction – the auction can be used to procure standardised day-ahead forward haul, backhaul and compression services after nomination cut-off time.

Trades conducted through the exchange will utilise the existing GSH settlement, prudential and reporting framework. Participants in both the GSH and the auction will receive one settlement statement for all traded products and be able to aggregate prudential requirements across gas, secondary capacity and auction products.

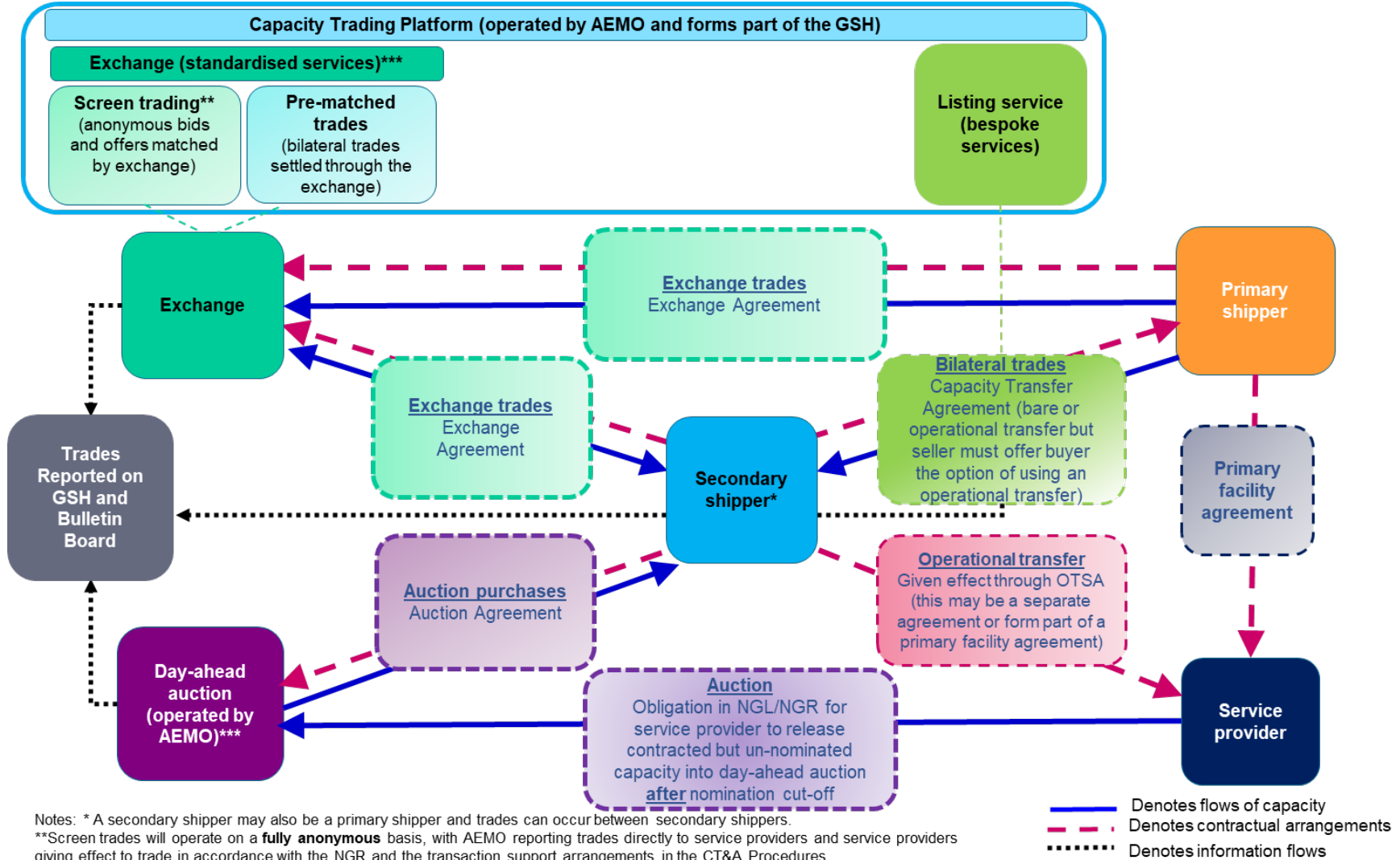
While shippers will only be able to procure standardised products through the exchange and the day-ahead auction, they will be able to supplement these services with other ancillary services procured directly from a transportation service provider or through a trade with another shipper. A shipper could, for example, negotiate with the transportation service provider to procure additional hourly flexibility, or an enhanced imbalance service. Similarly, a shipper could try and procure additional hourly or imbalance entitlements through a trade with another shipper on the pipeline.

Figure 2.3 shows how secondary capacity will be released through these mechanisms and the contractual arrangements shippers will need to have in place with:

- AEMO to trade capacity on the trading platform (**exchange agreement**) and to use the day-ahead auction (**auction agreement**); and
- transportation service providers to enable any capacity procured through these mechanisms to be used by way of an operational transfer (see Box 2.1) (**OTSA**).

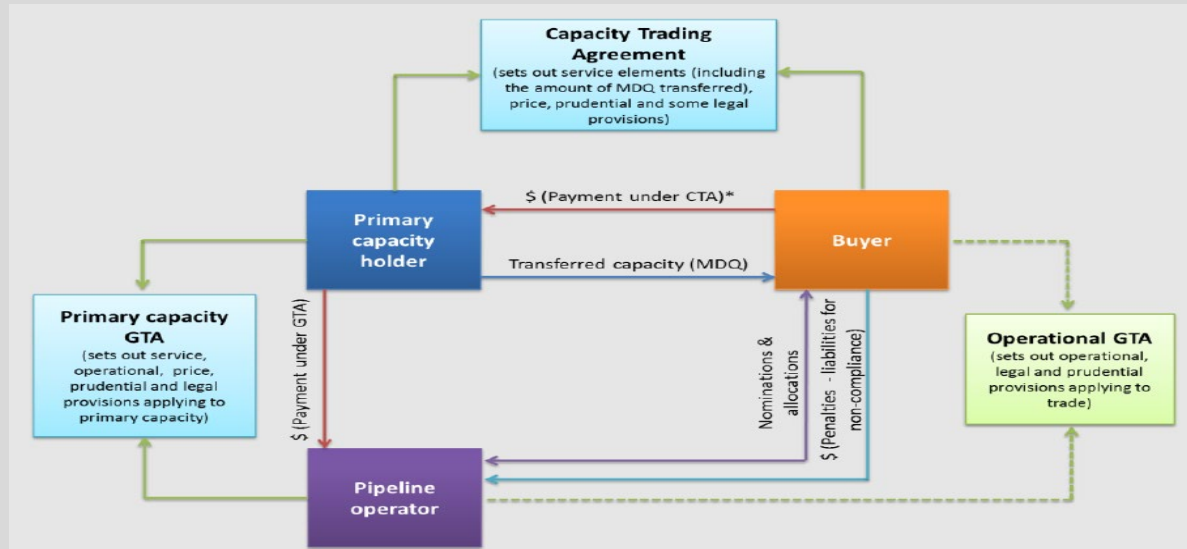
¹⁶ Shippers will also be able to use other means to identify potential counterparties and enter into bilateral trades.

Figure 2.3: How capacity will be released through the capacity trading platform and auction and contractual arrangements



Box 2.1: Operational transfers

Under an operational transfer, the terms applicable to the sale of capacity between shippers are set out in the secondary capacity trading agreement or Exchange Agreement entered into by the shippers and for purchases through the auction, in the auction agreement and CT&A Procedures. The terms governing user of the capacity are set out in the OTSA entered into between the transportation service provider and secondary shipper. The key difference between an operational transfer and a bare transfer is that the secondary shipper is responsible for making nominations directly to the transportation service provider and complying with the operational and legal obligations in the OTSA. The diagram below sets out how an operational transfer works. Note that in this diagram, the term operational GTA is used rather than OTSA.



Source: AEMC, Stage 2 Final Report: *East Coast Review*, 23 May 2016, pp. 99-100 and Pipeline Access Discussion Paper, 3 March 2016, pp. 18-19.

Table 2.1 provides a summary of the contractual arrangements that shippers will need to have in place to use the day-ahead auction or capacity trading platform. Further detail on these arrangements is provided in Table 2.2.

Table 2.1: Summary of contractual arrangements shippers will need to enter into

Counterparties	Capacity Trading Platform	Day-Ahead Auction
AEMO	Exchange Agreement	Auction agreement
Transportation service providers on facilities a shipper wants to use	OTSA (this may take the form of a stand-alone agreement (including the standard OTSA) or form part of a primary facility agreement)	
Allocation agents at receipt or delivery points a shipper wants to use	Allocation arrangements	



Table 2.2: Arrangements shippers require for capacity trading platform and auction

Participation in the day-ahead auction and capacity trading platform	
Capacity trading platform	<p>Primary and secondary shippers that want to use the capacity trading platform will need to become members of the GSH by executing a membership agreement with AEMO and be registered as trading participants. Transportation facilities that want to sell capacity through the capacity trading platform will also need to become members of the GSH.</p> <p>Through the membership agreement, shippers will become a party to the Exchange Agreement. This is a multilateral agreement that sets out the terms of participation in the GSH and the terms governing transactions entered into through the exchange. The body of this agreement contains the trading, delivery, prudential and settlement obligations, while the product specifications are set out in schedules.</p>
Auction membership	<p>Shippers that want to participate in the day-ahead auction will need to execute an auction agreement with AEMO. The auction agreement will set out the terms of participation in the auction, including the prudential and settlement obligations.</p>
Use of secondary capacity procured through the capacity trading platform or the auction	
Operational transfers	<p>If a shipper procures secondary capacity through the exchange or the day-ahead auction, the trade will be given effect through an operational transfer. Secondary shippers will also have the option to utilise an operational transfer if they enter into a bilateral trade identified through the listing service or negotiated bilaterally. A secondary shipper will therefore need to have entered into an OTSA with the transportation service provider. This may take the form of a stand-alone agreement (such as a standard OTSA) or may form part of a shipper's primary facility agreement.</p> <p>OTSAs, which are sometimes referred to as 'zero MDQ' contracts, operate like a master agreement between the transportation service provider and secondary shipper, with the operational capacity (measured on an Maximum Daily Quantity (MDQ) basis) set at zero until the shipper purchases capacity. The OTSA sets out the terms on which the transportation service provider will provide services to the secondary shipper when the shipper has bought secondary capacity on an operational transfer basis, including the operational, prudential and other terms governing the relationship between the transportation service provider and secondary shipper.</p> <p>If capacity is purchased, then the MDQ in the shipper's OTSA will be increased for the duration of the trade and the shipper will be entitled to make nominations directly to the transportation service provider and will be liable to pay the transportation service provider for any specified operational charges (such as imbalance or overrun charges) set out in the OTSA. The primary shipper, on the other hand, will remain liable to pay the transportation service provider the capacity charge for the capacity sold to the secondary shipper.</p> <p>While the term 'transfer' in an operational transfer implies that capacity is being transferred from one shipper to another, this will not occur in relation to the day-ahead auction. In the auction, any CBU capacity that is sold will be allocated to the auction winners, but there will not be a corresponding reduction in the holdings of firm capacity holders because these capacity holders will continue to have the right to renominate against their contracted capacity and will also retain any imbalance allowance associated with the firm capacity.</p>
Allocation arrangements	<p>If a secondary shipper procures capacity through the exchange or auction and wants to use a multi-user receipt or delivery point, it may need to become a party to an allocation agreement at the point. Allocation arrangements set out the rules the allocation agent is required to use to allocate gas between shippers at the receipt or delivery point.</p>
Other services	<p>In some cases, a secondary shipper may also require:</p> <ul style="list-style-type: none"> ▪ access to other transportation services that are not available on the exchange or through the auction. For example, in some locations a shipper will require redirection services or may want additional hourly or imbalance flexibility than what is provided for in the standard services. The shipper will need to enter into arrangements with the relevant transportation service provider (or other shippers using that facility) for those services; and ▪ access to a receipt or delivery point that is controlled by a third party and will need to enter into arrangements with that party to use those points.



3. Legal and regulatory framework

The legal and regulatory framework required to give effect to the capacity trading reform package (see Figure 1.1) comprises:

- changes to the **NGL**;
- changes to the **Regulations**;
- changes to the **NGR**;
- a new regulatory instrument, the **Code**; and
- a number of subordinate instruments that:
 - AEMO will need to either make (e.g. the CT&A Procedures and standard auction agreement) or amend (e.g. the Exchange Agreement and the Bulletin Board Procedures); and
 - the AER will need to make (e.g. the record keeping guidelines).

This chapter provides a brief overview of these legal and regulatory instruments, the governance arrangements that will apply to these instruments and the new functions and powers the AEMC, AEMO and the AER will have under the reform package.

3.1 Legal and regulatory instruments

The table below provides an overview of the key changes that have been made to the NGL, Regulations, NGR and the key elements of the Code.

Table 3.1: Overview of changes to the legal and regulatory framework

Instrument	Change
NGL	<p>Changes to the NGL have been made to:</p> <ul style="list-style-type: none"> ▪ extend the subject matter of the NGR to include provisions relating to the capacity trading reform package; ▪ set out the new functions and powers of the AEMC, AEMO and the AER; ▪ allow AEMO to make the CT&A Procedures; ▪ specify the obligations transportation service providers and other market participants will be subject to under the NGL to support the capacity trading reform package; ▪ establish the legal framework for various aspects of the capacity trading reform package (e.g. the day-ahead auction, Code and standard market timetable); and ▪ include a number of transitional immunities to support the capacity trading reform package.
Regulations	<p>Changes to the Regulations have been made to:</p> <ul style="list-style-type: none"> ▪ specify the provisions in the NGL and NGR that will be civil penalty and/or conduct provisions; ▪ extend the operation of the liability caps to the new arrangements in the NGL; ▪ specify the designated compression service facilities; and ▪ provide for a transitional derogation from the day-ahead auction for transportation facilities located wholly or partly in the NT that are declared by the NT Minister in the NT Government Gazette until the date determined by the COAG Energy Council (which can only be made after the fifth anniversary of the commencement of the auction).

Instrument	Change
NGR	<p>Changes to the NGR have been made to:</p> <ul style="list-style-type: none"> ▪ Amend some existing parts of the NGR, including: <ul style="list-style-type: none"> ○ Part 15A (Registered Participants) – changes to this part of the NGR provide AEMO with some flexibility about how it will recover the capacity trading and auction related costs it incurs. ○ Part 15B (Procedures) – changes to this part of the NGR set out the matters that the CT&A Procedures can address. ○ Part 18 (Natural Gas Services Bulletin Board) – changes to this part of the NGR give effect to aspects of the secondary capacity reporting framework and a number of other transparency measures, including those relating to allocation arrangements and auction related information. ○ Part 22 (Gas Trading Exchange) – changes to this part of the NGR give effect to some of the proposed features of the capacity trading platform, which will form part of the GSH. ▪ Insert the following new parts into the NGR: <ul style="list-style-type: none"> ○ Part 24 (Facilitating Capacity Trades and the Capacity Auction) – this sets out the exemption and registration framework and provides for a number of measures to facilitate capacity trading and the day-ahead auction, including providing for the development of the Code, standard OTSAs, transaction support arrangements and transportation service providers' obligations. ○ Part 25 (Capacity Auctions) – this sets out the rules pertaining to the day-ahead auction. ○ Part 26 (Standard Market Timetable) – this sets out rules relating to the adoption of a common gas day start time, a common nomination cut-off time for transportation facilities subject to the capacity trading reforms and a common auction service nomination cut-off time for auction facilities. ▪ Specify a number of transitional rules relating to Part 15B, Part 18, Part 24, Part 25 and Part 26 in Schedule 5 of the NGR.
Code	<p>The Code is a new instrument that governs the content of standard form OTSAs and contains:</p> <ul style="list-style-type: none"> ▪ a description of each standard operational transportation service; ▪ the standard terms and conditions for the provision and use of standard operational transportation services that will apply to all transportation facilities; ▪ a description of, and the requirements for, facility specific terms associated with the provision and use of standard operational transportation services, which may differ across facilities; and ▪ a form of agreement that can be executed by the parties.

3.2 Governance of the legal instruments

The NGL is set out in the schedule to the *National Gas (South Australia) Act 2008* (SA) and applies in each participating jurisdiction (other than WA) under application legislation of each jurisdiction.¹⁷ The amendments to the NGL and the Regulations were made through legislation and regulations enacted or made in South Australia. The amendments to the NGL gave the South Australian Minister the power to make the initial Rules (i.e. in Parts 24-26), amend existing Rules (i.e. in Parts 15A, 15B, 18 and 22), remake the earlier

¹⁷ WA has its own versions of the NGL and Rules under the *National Gas Access (WA) Act 2009*.



AEMC rules dealing with gas day harmonisation to bring the start date forward and make the initial Code.

AEMO will use the usual change process for the GSH to amend the Exchange Agreement for the introduction of the capacity trading platform and will make the initial CT&A Procedures under the new power in the NGL.

Going forward, the usual change mechanisms will apply to these instruments, with:

- the Energy Council responsible for considering changes to the NGL and Regulations;
- the AEMC responsible for considering changes to the NGR;
- AEMO responsible for considering changes to the CT&A Procedures, Exchange Agreement and other subordinate instruments; and
- the AER responsible for developing and amending any guides or guidelines specified in the NGR.

The AER will be responsible for making changes to the Code, which will be subject to a new hybrid governance model. Under this governance model an industry-based panel comprising a member from AEMO (who will chair the Panel), two transportation service providers and two shippers (one of which must be a large user of gas), will consider proposals to amend the Code and provide its recommendations to the AER on the proposed amendments. Amendments recommended by the Panel will only take effect if approved by the AER. In deciding whether to approve the amendments, the AER must consider the Code objective¹⁸ and a number of other principles and matters specified in the NGR. The AER can approve, reject or remit a proposed change. It also has the power to amend the Code on its own initiative, but before doing so must request advice from the Panel and AEMO, and consult with interested parties.¹⁹

The AER and Panel will also be able to seek the advice of consumer and industry representative bodies where it is appropriate to do so.

3.3 New functions and powers for the AEMC, AEMO and the AER

The capacity trading reform package provides for a number of new functions and powers of the AEMC, AEMO and the AER, which are summarised in Table 3.2. Further information on the functions and powers of the energy market bodies associated with each element of the reform package is provided in Chapters 4-9.

¹⁸ The Code objective is to provide for access to operational transportation services on reasonable terms, which is taken to mean at prices and on other terms and conditions that, so far as practical, reflect the outcomes of a workably competitive market.

¹⁹ Consultation will be required unless the modification is non-material or urgently necessary to ensure the proper operation of the auction or the capacity trading platform, or the safe and reliable operation of one or more facilities.

Table 3.2: Changes in functions and powers

Market Body	New functions and powers
AEMC	The AEMC's rule making functions and powers have been expanded to allow it make rules with respect to the matters being introduced by the reform package. This is reflected in the amendments to section 74 and Schedule 1 of the NGL.
AEMO	<p>AEMO's functions and powers have been expanded to encompass the following areas:</p> <ul style="list-style-type: none"> ▪ Measures to facilitate capacity trading and the day-ahead auction: AEMO is responsible for: <ul style="list-style-type: none"> ○ establishing, operating and administering the transaction support arrangements that will facilitate transactions conducted through the capacity trading platform and the day-ahead auction;²⁰ ○ determining the zones and pipeline segments for each transportation facility that will be subject to the reforms and the service points between which backhaul auction services will be available on single direction pipelines (or parts thereof); ○ establishing, maintaining and administering the transportation service point register, which will set out the service points, zones and, where relevant, pipeline segments on each transportation facility that will be subject to the reforms; ○ establishing, chairing and providing secretariat services²¹ to the Panel; and ○ publishing on the Bulletin Board a range of capacity trading, day-ahead auction and other information that transportation service providers and other market participants will be required to report. ▪ Day-ahead auction: AEMO is responsible for: <ul style="list-style-type: none"> ○ establishing, operating and administering the day-ahead auction; and ○ making and administering auction agreements, which shippers will be required to enter into with AEMO to participate in the auction. ▪ Registration for transaction support arrangements and the day-ahead auction: AEMO is responsible for establishing, maintaining and administering a register of non-exempt transportation facilities (referred to as 'Part 24 facilities') and their facility operators. ▪ Procedures and other guidance material: <ul style="list-style-type: none"> ○ AEMO is responsible for making and amending the CT&A Procedures, which, in conjunction with the NGL and NGR, will govern the operation and administration of the day-ahead auction and the transaction support arrangements; ○ AEMO may develop and publish a guide for transportation service providers about the process and timing for registration and the functions of transportation service providers and facility operators (i.e. the registered transportation service provider for Part 24 facilities) under the capacity trading reforms; and ○ AEMO is responsible for publishing information about the transition of the facilitated gas markets to the standard market timetable. <p>AEMO also has the power to recover the costs associated with establishing, operating and administering the day-ahead auction, the CT&A Procedures and a number of costs associated with the operation of the Panel.</p>

²⁰ The transaction support arrangements, for example, provide for AEMO to notify transportation service providers of trades conducted through the capacity trading platform and the auction and the exchange of other information to aid the transfer of capacity (e.g. the receipt and delivery point information).

²¹ In this capacity, AEMO is responsible for developing and publishing the election procedures and operating manual for the Panel and maintaining a register of Panel members. AEMO is also responsible for receiving any proposed amendments to the Code and determining, in accordance with the NGR, whether the amendment should be referred to the Panel for assessment or rejected because it is misconceived or lacking in substance.

Market Body	New functions and powers
AER	<p>The AER's functions and powers have been expanded to give it responsibility for:</p> <ul style="list-style-type: none"> ▪ Granting transportation facilities (or parts thereof) that meet the relevant criteria in the NGR an exemption and revoking exemptions if the facility ceases to qualify for an exemption. ▪ Amending the Code in accordance with the NGL and NGR. ▪ Monitoring and enforcing compliance with various obligations in the NGL, NGR, CT&A Procedures and other relevant instruments. ▪ Overseeing the classification of transitional firm services by auction facility operators and monitoring compliance with the conditions of use of these services. ▪ Developing and publishing record keeping guidelines, which will set out the matters to be included in: <ul style="list-style-type: none"> ○ the nomination, renomination and scheduling records to be maintained by auction facility operators and how the records are to be made and kept; and ○ the renomination records to be maintained by shippers using auction facilities. <p>The AER is also required to conduct a review of the compliance of standard OTSAs and standardisation charges with the principles in the NGR and Code within 12 months of the capacity trading platform and auction being implemented.</p>

4. Exemptions and registration requirements

Transportation facilities that satisfy the exemption criteria in the NGR will be able to obtain an exemption from some or all of the capacity trading reforms (excluding the secondary capacity reporting framework and the standard market timetable). If a transportation facility does not qualify for an exemption it will be considered a 'Part 24 facility' (i.e. a non-exempt facility) and the transportation service provider will be required to register with AEMO to perform the obligations and exercise the rights of a facility operator under Parts 24 and 25 the NGR and the CT&A Procedures.

Further detail on the exemptions framework and registration requirements for transportation facilities is provided below, along with an overview of the changes that have been made to the NGL, NGR and Regulations to give effect to these elements of the reform package.

4.1 Overview of the exemptions framework

Table 4.1 provides an overview of the final design of the exemptions framework. As noted in Chapter 1, a number of refinements to this part of the draft package were made. These are summarised in Table 1.3. Further detail on the procedural requirements for exemptions is provided in Box 4.2.

Table 4.1: Final design of the exemptions framework

Type	Scope of the exemptions	Availability of exemption
Full exemptions	Provides for an exemption from all aspects of the reform package (excluding the secondary capacity reporting framework ²² and the standard market timetable)	Automatically available to: ²³ <ul style="list-style-type: none"> ▪ distribution pipelines (see Box 4.1); ▪ transportation facilities forming part of the DTS; and ▪ compression facilities that are not: <ul style="list-style-type: none"> – stand-alone compression service facilities; or – designated as compression service facilities in the Regulations.²⁴
		Available on application to the AER to transportation facilities that are not providing third party access. ^{25,26}

²² The secondary capacity trading reporting obligations apply to trading parties rather than facilities. The exemptions set out here do not therefore apply to this reporting framework.

²³ See rule 610 of the NGR.

²⁴ The designated compression service facilities in the Regulations are the Wallumbilla and Moomba facilities operated by APA, the Iona facility operated by Lochard and the Ballera facility operated by Santos.

²⁵ A transportation facility (or the relevant part) will be considered a third party access facility if any transportation services on the transportation facility are offered or provided, directly or indirectly, to any person other than:

- the transportation service provider;
- a related body corporate (as defined in the *Corporations Act 2001*) of the transportation service provider; or
- a joint venture in which the transportation service provider or a related body corporate of the transportation service provider is a joint venture participant.

²⁶ See rule 611 of the NGR.

Type	Scope of the exemptions	Availability of exemption
Conditional exemptions	<p>Provides for an exemption from the day-ahead auction and the obligation to prepare and publish a standard OTSA, but not from a range of other obligations such as the obligation to:²⁷</p> <ul style="list-style-type: none"> ▪ prepare and offer to enter into a standard OTSA if requested to do so by a shipper; ▪ comply with the standardisation cost recovery and charging principles; ▪ give effect to operational transfers; ▪ amend existing facility agreements if requested to do so by a shipper and ensure new facility agreements permit shippers to sell capacity for use under an OTSA and give effect to facilitation of trade principles in the NGR; and ▪ comply with the use of additional pipeline service point provisions. 	<p>Available on application to the AER to transportation facilities that:²⁸</p> <ul style="list-style-type: none"> ▪ have a nameplate less than 10 TJ/day; or ▪ are servicing a single user (shipper).²⁹ <p>In relation to the latter of these exemption criteria, if a prospective shipper enters into an OTSA with the transportation service provider then it will technically no longer be a single user facility and the AER may revoke the exemption.³⁰</p>

Box 4.1: Procedural requirements for exemptions

Standard Part 24 exemptions

A transportation service provider of a transportation facility that is not a designated compression facility and meets one or more of the following criteria may apply to the AER for an exemption:³¹

- the transportation facility is not providing third party access;
- the transportation facility is a single user facility; or
- the transportation facility has a nameplate rating less than 10 TJ/day.

The first two of these criteria are identical to the exemption criteria in Part 23 of the NGR, while the last criterion is based on the reporting threshold adopted in Part 18 of the NGR.

The AER must, on the application of the service provider, grant an exemption in respect of the transportation facility (or a part of the facility), if:³²

- the service provider has demonstrated to the AER's reasonable satisfaction that the transportation facility (or part thereof) qualifies for an exemption;
- in the case of part of a transportation facility, the grant of the exemption will not hinder access to operational transportation services on any other part of the facility; and
- the AER is otherwise satisfied that in all the circumstances the exemption should be granted.

The AER must decide whether to grant or refuse to grant an exemption within 40 business days after the application is made.³³

²⁷ See rules 611, 634, 638 and 640-643 of the NGR.

²⁸ See rule 611 of the NGR.

²⁹ A transportation facility is a single user facility if it is a third party access facility and all transportation services are provided to a single transportation facility user, taking into account transportation services provided both directly and indirectly by the transportation service provider.

³⁰ Given the costs a service provider could incur once the exemption is revoked, the NGR provides the AER with the discretion not to revoke the exemption if, for example, the shipper only enters into a relatively short-term OTSA (e.g. a three to six-month contract). See rule 613(2).

³¹ See rules 611(3)-(4) of the NGR.

³² See rule 611(1) of the NGR.

³³ See rule 615 of the NGR.

The AER also has the power to grant an exemption to a class or group of transportation facilities on the application of a transportation service provider for one or more facilities, or on its own initiative based on its understanding that a facility meets the criteria specified in the NGR.³⁴ The AER could, for example, grant an exemption on its own initiative to those transmission pipelines that have obtained an exemption under Part 23 of the NGR because they are not providing third party access or are a single user facility.³⁵

An exemption granted to a transportation facility (or part thereof) that is a single user facility or has a nameplate rating less than 10 TJ/day, will be subject to a condition that the transportation service provider must, if it receives an eligible request³⁶ for an OTSA, prepare and offer to enter into such an agreement within 60 business days.³⁷ The AER may also impose other conditions when granting an exemption, which the service provider must comply with.^{38,39}

If circumstances change, such that the transportation facility (or part thereof) no longer qualifies for an exemption, the transportation service provider must notify the AER without delay.⁴⁰ The exemption may then be revoked by the AER.⁴¹ The AER may also revoke the exemption on its own initiative or following an application made by any person⁴². If the AER proposes to vary or revoke an exemption other than on application of the transportation service provider concerned,⁴³ it must notify the transportation service provider and invite it to make submissions about the proposal.⁴⁴ If the AER varies or revokes an exemption it must give the transportation service provider written reasons for its decision.⁴⁵

An application for an exemption, variation of an exemption, or revocation of an exemption must be in the form, and contain the information, specified in any AER-issued guidelines.⁴⁶ The AER may also ask the applicant to provide further information or clarification in support of an application if the AER considers the application is incomplete or requires clarification.⁴⁷

The AER is required by the NGR to publish and maintain a register of exemptions and revocations and must also notify AEMO when an exemption is granted or revoked.⁴⁸

Transitional Part 24 exemptions

The obligation to register an existing facility and to comply with a number of other obligations will commence when the amendments to the NGR start, or shortly thereafter. Provision has therefore been made for the AER to issue transitional exemptions up until the auction commencement date.^{49,50} During this period, the AER may, on the application of a transportation service provider⁵¹ or on its own initiative, grant a transitional exemption to a transportation facility (or part thereof). The AER may do so if it is satisfied, having regard to any

³⁴ See rule 611(2) of the NGR.

³⁵ The AER would not be able to use this power to grant an exemption to transmission pipelines that have obtained a size based threshold under Part 23 because the size thresholds differ under the capacity trading reform package.

³⁶ An eligible request is a request made by a prospective secondary shipper who meets the eligibility criteria set out in rule 636(5) of the NGR and who intends to enter into the standard OTSA and use its reasonable endeavours to procure transportation capacity on the transportation facility. See rule 611(6) of the NGR.

³⁷ See rule 611(6) of the NGR.

³⁸ See rule 612 of the NGR.

³⁹ The AER may vary the conditions of an exemption on the application of the service provider, or on its own initiative. See rule 612(3) of the NGR.

⁴⁰ See rule 611(10) of the NGR.

⁴¹ See rule 613 of the NGR.

⁴² See rule 613(3) of the NGR.

⁴³ Any person can apply to the AER for an exemption to be revoked or to be varied. See rule 614(2) of the NGR.

⁴⁴ See rule 616(1) of the NGR.

⁴⁵ See rule 616(3) of the NGR.

⁴⁶ See rule 614(3) of the NGR.

⁴⁷ See rule 614(4) of the NGR.

⁴⁸ See rule 611(8)-(9) of the NGR.

⁴⁹ See transitional rules in Schedule 5, Part 3, rule 4.

⁵⁰ These transitional arrangements have been included in the NGR to allow the AER to grant an exemption to a transportation facility (or group or class of facilities) on an interim basis, while it considers whether the facility (or group or class of facilities) qualifies for an exemption.

⁵¹ This application must be made in accordance with the process for applying for a standard exemption.

matter it considers relevant, the transitional exemption should be granted.⁵² A transportation facility granted a transitional exemption will be exempt from the obligation to register with AEMO and other obligations for the duration of the exemption.

When granting a transitional exemption, the AER can determine if any conditions will apply.⁵³ For example, if a facility is only likely to be eligible for a conditional exemption (i.e. because it services a single user), the AER could determine that the facility should be subject to the same obligations that a conditionally exempt facility would be subject to for the period of the transitional exemption.

Any transitional exemption granted by the AER will automatically expire on the earlier of:⁵⁴

- a date specified by the AER when it grants the transitional exemption;
- the effective date of a standard exemption granted by the AER for the transportation facility (or part thereof) that is the subject of the transitional exemption; and
- the day after the commencement of the auction (i.e. 1 March 2019).

The AER may revoke a transitional exemption by giving not less than 10 business days' written notice to the transportation service provider.⁵⁵

If a standard exemption is not obtained by the time the transitional exemption lapses, the transportation facility and transportation service provider will need to register with AEMO and will become subject to the reforms.

4.2 Overview of registration requirements

If a transportation facility does not qualify for an exemption then it will be considered a **Part 24 facility**. The transportation service provider for such a facility must apply to AEMO to:⁵⁶

- register the transportation facility; and
- register as the facility operator for that transportation facility.

Where there are multiple transportation service providers for a Part 24 facility, each service provider will be taken to be a member of a transportation service provider group.⁵⁷ The members of this group must appoint one of their members as the 'responsible transportation service provider' (see Box 4.2 for more detail).⁵⁸ The responsible transportation service provider must apply to AEMO to register the transportation facility and be registered as the facility operator for it.

The facility operator for a Part 24 facility is responsible for the facility for the purposes of the transaction support arrangements and day-ahead auction provisions in the NGR and CT&A Procedures.

⁵² See transitional rules in Schedule 5, Part 3, rule 4.

⁵³ See transitional rules in Schedule 5, Part 3, rule 4(3).

⁵⁴ See transitional rules in Schedule 5, Part 3, rule 4(5).

⁵⁵ See transitional rules in Schedule 5, Part 3, rule 4(6).

⁵⁶ See rules 618 and 619 of the NGR.

⁵⁷ See rule 620(1) of the NGR.

⁵⁸ See rule 620(3) of the NGR.



An application to register must be made no later than 20 business days after the person becomes a transportation service provider for a Part 24 facility.^{59,60} The application⁶¹ must be in the form and contain the information specified in the CT&A Procedures and must also contain a description of the transportation facility and, unless the information is already provided under Part 18 of the NGR, the facility's nameplate rating.⁶² If the application is made by a responsible transportation service provider on behalf of a service provider group, the application must also contain information about the service provider group specified in the CT&A Procedures.⁶³

Within 10 business days of receiving an application, AEMO may ask the applicant to provide further information or clarification, which the applicant must respond to within 10 business days.^{64,65} If any of the information provided to AEMO in the original application or in response to a request by AEMO, changes or otherwise becomes inaccurate, the facility operator must update the information as soon as practicable.⁶⁶

If the application is made in accordance with the NGR, AEMO must register the applicant as the facility operator and must also register the transportation facility.^{67,68}

If the identity of the transportation service provider or responsible transportation service provider changes, the outgoing facility operator must notify AEMO of the change and the new transportation service provider must apply to register as the facility operator.⁶⁹ The notification and registration application must be made no later than five business days after the change takes effect.⁷⁰ If, on the other hand, a facility operator and/or a transportation facility is no longer required to be registered, the facility operator must apply to AEMO to revoke the registration.⁷¹ The application must be in the form specified in the CT&A Procedures and contain the information specified by AEMO.⁷²

In addition to these requirements, provision has been made in the NGR for AEMO to register a pipeline that is the subject of multiple pipeline licences as a single transportation

⁵⁹ See rule 618(2) of the NGR.

⁶⁰ A person that owns, controls or operates a transportation facility that was commissioned on or before the reforms commence, will automatically become a transportation service provider 20 business days after the amendments to the NGR commence.

⁶¹ Under rule 622(2) of the NGR an application may be made by:

- by a person who intends to become a transportation service provider or a responsible transportation service provider;
- in respect of a proposed transportation facility; or
- by a person intending to register with AEMO as a facility operator for a Part 24 facility.

⁶² See rule 622(1) of the NGR.

⁶³ See rule 620(5) of the NGR.

⁶⁴ See rules 622(3)-(4) of the NGR.

⁶⁵ If the information is not provided in that period, the application will be taken to have been made when the further information or clarification is provided to AEMO's satisfaction.

⁶⁶ See rule 622(5) of the NGR.

⁶⁷ See rules 623(1)-(2) of the NGR.

⁶⁸ If an application is made by an intending service provider, intending facility operator or in respect of a proposed facility, the registration takes effect at the time determined by AEMO.

⁶⁹ See rules 621(1)-(2) of the NGR.

⁷⁰ See rules 621(3)-(4) of the NGR.

⁷¹ See rules 624(1)-(2) of the NGR.

⁷² See rule 624(3) of the NGR.



facility and may require the registration applications to be consolidated for that purpose.⁷³ AEMO may also, on the application of a facility operator:^{74,75}

- register a transportation facility, together with one or more other facilities in respect of which an application is made, as a single transportation facility; or
- register a part (or parts) of a transportation facility as a separate transportation facility.

Before doing so, AEMO must be reasonably satisfied, having regard to the information provided by the facility operator and any other matter it considers appropriate, that such registration is not likely to hinder access to one or more operational transportation services.

Box 4.2: Effect of appointing a responsible transportation service provider

If a transportation service provider is appointed by a service provider group as the 'responsible transportation service provider' for a facility, then the members of the service provider group will be taken to have authorised the responsible transportation service provider to perform the obligations and exercise the rights of facility operator for that facility under the transaction support arrangements and day-ahead auction provisions in the NGR and the CT&A Procedures (including any right to receive payment from AEMO).⁷⁶

While the responsible transportation service provider will be required to perform the obligations and exercise the rights of a facility operator under the NGR and CT&A Procedures, another transportation service provider may be responsible for some of the other obligations in the NGR. For example, another service provider may be responsible for publishing and offering to enter into a standard OTSA, amending existing facility agreements in response to a request by a shipper or carrying out other functions in the NGR or CT&A Procedures that are not related to the capacity trading platform or day-ahead auction. It is for this reason that provisions in Part 24 of the NGR refer to both facility operators and transmission service providers.

4.3 Legal and regulatory framework

To implement the exemptions and registration frameworks outlined above, a number of changes have been made to the NGL, the Regulations and the NGR. Further detail on the amendments that have been made to these instruments is provided below.

4.3.1 Changes to the NGL

Exemptions framework

To give effect to the exemptions framework, provision has been made in the NGL for transportation service providers to request that the AER grant an exemption (with any such request to be made in accordance with the NGR) to its transportation facility from the following obligations in respect of that transportation facility:

- the obligation to prepare and publish a standard OTSA;⁷⁷

⁷³ See rule 623(3) of the NGR.

⁷⁴ See rule 623(4) of the NGR.

⁷⁵ This can also occur if a facility is already registered.

⁷⁶ See rule 620(3) of the NGR.

⁷⁷ See sections 228B and 228D of the NGL.



- the obligation to offer to enter into a standard OTSA and, if the offer is accepted, to enter into the agreement;⁷⁸ and
- the obligation to register.⁷⁹

Provision has also been made for the AER to grant exemptions and for any exemptions that are granted to be subject to terms and conditions required by the NGR, or as the AER considers appropriate, in accordance with the NGR.⁸⁰

In addition to these provisions, the NGL has been amended to extend the subject matter of the NGR and the scope of the AEMC's rule making functions to include exemptions in connection with a standard OTSA or auction.⁸¹

Registration framework

To give effect to the registration framework, provision has been made in the NGL for transportation service providers (excluding AEMO) to register unless they are exempt from doing so under the NGR:⁸²

- their transportation facility; and
- as the transportation service provider for that facility.

The NGL also sets out for the certification requirements for registration and exemptions from registration.⁸³

In addition to these provisions, the NGL has been amended to extend the subject matter of the NGR and the scope of the AEMC's rule making functions to include a registration scheme to be administered by AEMO for the registration of transportation service providers and transportation facilities.⁸⁴

4.3.2 Changes to the NGR

Exemptions framework

Subdivision 3.1 of Part 24 of the NGR contains further detail on the exemptions framework and, in particular, sets out:

- The automatic exemptions that are available to distribution pipelines, transportation facilities that form part of the DTS and compression facilities that are not designated in the Regulations or are not stand-alone facilities.⁸⁵
- The exemptions that are available, on application to the AER, to transportation facilities that are: not providing third party access; servicing a single user facility; or have a nameplate rating less than 10 TJ/day.⁸⁶

⁷⁸ See sections 228B and 228D of the NGL.

⁷⁹ See section 91BRS(1) and (2) of the NGL.

⁸⁰ See sections 91BRS(3) and (4) and 228D(3)-(4) of the NGL.

⁸¹ See Schedule 1 (item 68M) of the NGL.

⁸² See section 91BRR of the NGL.

⁸³ See section 91BRT of the NGL.

⁸⁴ See Schedule 1 (item 68G) of the NGL.

⁸⁵ See rule 610 of the NGR.

⁸⁶ See rule 611 of the NGR.



- The requirement for any exemption granted to a transportation facility that is a single user facility or that has a nameplate less than 10 TJ/day, to be subject to a condition that the transportation service provider must prepare and offer to enter into a standard OTSA within 60 business days if it receives an eligible request.⁸⁷
- The power the AER has to impose any other conditions on an exemption that it considers reasonable and the obligation that service providers have to comply with these conditions.⁸⁸
- The power the AER has to vary or revoke an exemption.⁸⁹
- The requirements for applying for an exemption or revocation and the matters the AER must consider when making a decision on whether to grant, vary or revoke an exemption and the time within which a decision must be made.⁹⁰

The transitional rules in Schedule 5, Part 3 of the NGR also set out the power the AER has to grant transitional exemptions and the period over which these exemptions can be granted.⁹¹

Registration framework

Subdivision 3.2 of Part 24 of the NGR contains further detail on the registration framework and, in particular, sets out:

- The obligations AEMO has to:
 - establish, maintain and publish a register of facility operators and transportation facilities registered under Part 24 of the NGR;⁹²
 - develop and publish a guide about the process and timing for registration and the functions of:
 - facility operators under Parts 24 and 25 of the NGR and the CT&A Procedures; and
 - transportation service providers under Part 24 of the NGR (even if not registered as facility operator);⁹³ and
 - register applicants and their facilities in accordance with the NGR⁹⁴ and to revoke a registration if it is satisfied the facility is no longer required to be registered.⁹⁵
- The obligations that transportation service providers have to apply to register with AEMO:
 - as a facility operator if any of its transportation facilities are Part 24 facilities and it is not already registered under Part 24 of the NGR;⁹⁶ and

⁸⁷ See rule 611(6) of the NGR.

⁸⁸ See rule 612 of the NGR.

⁸⁹ See rule 616 of the NGR.

⁹⁰ See rules 614, 615 and 616 of the NGR.

⁹¹ See Schedule 5, Part 3, rule 4.

⁹² See rule 617 of the NGR.

⁹³ See rule 617 of the NGR.

⁹⁴ See rule 623 of the NGR.

⁹⁵ See rule 624 of the NGR.

⁹⁶ See rule 618 of the NGR.

- their non-exempt transportation facility and as the facility operator for that facility.⁹⁷
- The obligations that transportation service providers have if there are multiple service providers for a Part 24 facility (see section 4.2), including:⁹⁸
 - The obligation members of the transportation service provider group have to nominate a responsible transportation service provider and for the responsible transportation service provider to register the Part 24 facility with AEMO and register as the facility operator.
 - The obligation each member of the transportation service provider group has to procure and where necessary facilitate, the compliance of the facility operator with its obligations under the NGR; and
 - The obligation the facility operator has to procure and, where necessary facilitate, the compliance of each other transportation service provider with their obligations under the NGR.
- The process related registration obligations that transportation service providers are required to comply with, which include a requirement to:
 - apply to register within the time specified in the NGR;⁹⁹
 - comply with the application for registration provisions in the NGR and the CT&A Procedures;¹⁰⁰
 - notify AEMO if the identity of the facility operator changes within the time specified in the NGR;¹⁰¹ and
 - apply to AEMO to revoke its registration if the facility operator is no longer required to be registered.¹⁰²
- The power AEMO has:
 - register a pipeline that is the subject of multiple pipeline licences as a single facility;¹⁰³ and
 - register, on the application of a facility operator:^{104,105}
 - the transportation facility, together with one or more other facilities in respect of which an application is made, as a single transportation facility; or
 - a part (or parts) of a transportation facility as a separate transportation facility.

The transitional rules in Schedule 5, Part 3 of the NGR also set out the date on which existing transportation facilities are taken to become Part 24 facilities for the purposes of triggering the registration requirements.¹⁰⁶

⁹⁷ See rule 619 of the NGR.

⁹⁸ See rule 620 of the NGR.

⁹⁹ See rules 618 and 619 of the NGR.

¹⁰⁰ See rule 622 of the NGR.

¹⁰¹ See rule 621 of the NGR.

¹⁰² See rule 624 of the NGR.

¹⁰³ See rule 623(3) of the NGR.

¹⁰⁴ See rule 623(4) of the NGR.

¹⁰⁵ This can also occur if a facility is already registered.

¹⁰⁶ See Schedule 5, Part 3, rule 5.



4.3.3 Changes to the Regulations

The Regulations have been amended to specify the compression service facilities that have been designated as Part 24 facilities for the purposes of the NGL and NGR, which are the Wallumbilla and Moomba compression facilities operated by APA, the Ballera compression facility operated by Santos and the Iona compression facility operated by Lochard.

Schedule 3 of the Regulations has been amended to classify a number of the exemption and registration related provisions as civil penalty provisions. A list of these provisions is set out in the table below.

Table 4.2: Civil penalty provisions

Provision		Type of penalty
NGL		
Section 91BRR(1)	Service providers (other than AEMO) must register as transportation service providers for their transportation facilities and must also register the transportation facility unless exempt from doing so under the NGR	Civil penalty
Part 24 of the NGR		
Rule 611(10)	Transportation service providers that obtain an exemption for their facility must notify the AER without delay if circumstances change such that the facility no longer qualifies for the exemption	Civil penalty
Rule 612(2)	Transportation service providers that obtain an exemption for their facility must comply with any conditions of the exemption	Civil penalty
Rule 621(3)	If the identity of the transportation service provider or the responsible transportation service provider for a Part 24 facility changes then the outgoing facility operator must notify AEMO of the change no later than 5 business days after the change takes effect	Civil penalty
Rule 621(4)	If the identity of the transportation service provider or the responsible transportation service provider for a Part 24 facility changes the new transportation service provider must apply to register no later than 5 business days after the change takes effect	Civil penalty
Transitional rules – Schedule 5 of NGR		
Schedule 5, Part 3, rule 4(4)	Transportation service providers for facilities that have obtained a transitional exemption must comply with the conditions of the exemption	Civil penalty
Schedule 5, Part 3, rule 5(2)	Transportation service providers for existing facilities must make an application to register no later than 20 business days after the Part 24 commencement date	Civil penalty



5. Measures to facilitate capacity trading and auction

The capacity trading reform package includes a number of measures that are designed to facilitate capacity trading and the day-ahead auction, including, amongst others:

- a framework to facilitate **operational transfers**, which will be used for trades conducted through the capacity trading platform and the day-ahead auction and in those cases where the buyer in a bilateral trade elects to use an operational transfer;
- an obligation to publish **standard OTSAs**, which will establish the standard terms for use of capacity procured in the capacity trading platform, the day-ahead auction or bilaterally (if the buyer elects to use an operational transfer) and which transportation service providers of Part 24 facilities will be required to prepare and offer to enter into if requested to do so by a shipper (subject to some limitations);¹⁰⁷
- a requirement for transportation service providers of Part 24 facilities and conditionally exempt facilities to give effect to operational transfers and comply with the **transaction support arrangements** in the CT&A Procedures, which will underpin the capacity trading platform and auction by providing for AEMO to notify service providers of trades conducted through the capacity trading platform and the auction and the exchange of other information to aid the transfer of capacity such as receipt and delivery point information;
- **measures to overcome contractual limitations** on capacity trading, including a requirement for transportation service providers of Part 24 facilities and conditionally exempt facilities to amend a shipper's existing facility agreement if requested to do so by the shipper and to give effect to the service point change process in the NGR; and
- the use of **zones** in the capacity trading platform and day-ahead auction.

Together these measures are intended to:

- support the operation of the capacity trading platform, the day-ahead auction and bilateral trades of capacity;
- provide shippers with access to secondary capacity and auctioned capacity on reasonable terms, which is taken to mean at prices and on other terms and conditions that, so far as practical, reflect the outcomes of a workably competitive market;
- reduce barriers to capacity trading, by removing other impediments to trade, including contractual restraints on capacity trading and restrictions on receipt and delivery point flexibility;
- reduce the search and transaction costs associated with procuring secondary capacity and auctioned capacity; and
- instil a greater level of confidence in the market through the implementation of robust governance arrangements and allowing industry to be involved in the ongoing development of the Code.

Further detail on these measures is provided below, along with an overview of the changes that have been made to the NGL, NGR and Regulations and the new regulatory instrument, the Code.

¹⁰⁷ Conditionally exempt facilities must also prepare a standard OTSA that complies with the NGR and Code if requested to do so by a shipper.

5.1 Overview of measures to facilitate trades and the auction

Table 5.1 provides an overview of the final design of the measures required to facilitate capacity trading and the day-ahead auction. This table should be read in conjunction with GMRG's final recommendations on the measures required to facilitate trade and the day-ahead auction, which were provided to the Energy Council in November 2017.¹⁰⁸

As noted in Chapter 1, a number of refinements have subsequently been made to these measures, which reflect the outcome of additional work undertaken in early 2018 and an enhanced understanding of the operational and contractual environment and the complexities associated with implementing an industry-based Panel. The refinements are summarised in Table 1.3.

¹⁰⁸ See GMRG, Final Recommendations on the Capacity Trading Reform Package (Standardisation, capacity trading platform and reporting framework for secondary trades), November 2017 and GMRG, Final Recommendations on the Operations and Administration of the Transportation Capacity Trading Platform and Day-Ahead Action, June 2017.

Table 5.1: Final design of the measures required to facilitate capacity trading and the auction

Design Element	Detail
Operational Transfers	
Contracts to be standardised	<p>Operational transfers will be used to give effect to capacity purchased through the capacity trading platform, the day-ahead auction and, where the buyer elects to use an operational transfer, bilateral trades. Bare transfers can be used in bilateral trades, subject to the seller offering the buyer the option of using an operational transfer, if requested to do so.¹⁰⁹</p> <p>The contractual arrangements for operational transfers will be set out in an OTSA, which may take the form of a stand-alone agreement (including the standard OTSA) or form part of a shipper's primary facility agreement.</p>
Standard OTSAs	
Code and content of a standard OTSA	<p>The standard OTSA must incorporate the standard terms in the Code and facility specific terms applicable to the facility.¹¹⁰ Provision has been made for facility specific terms in the Code and the standard OTSA because there are a number of provisions that are not practicable to standardise across facilities due to differences in the operational characteristics of the facility (for example, hourly limitations, pressure, temperature and metering requirements) and the contractual arrangements of the facility. The NGR, however, make clear that the Code must, to the extent reasonably practicable, provide for standard terms in preference to facility specific terms.¹¹¹ While the GMRG employed this principle when developing the initial Code, it is possible that some of the facility specific terms in the initial Code could be standardised in the future. The current specification of facility specific terms should not therefore be viewed as a constraint on the future development of the Code.</p> <p>Although transportation service providers will have some discretion in relation to the facility specific terms, the terms must be consistent with the NGR and give effect to facility specific requirements in the Code,¹¹² the objective of which is to ensure the facility specific terms are reasonable. The facility specific requirements in the Code may, for example, require facility specific terms to be consistent with equivalent terms in an AER approved access arrangement, or consistent with the terms in primary facility agreements.¹¹³ The facility specific terms will also be subject to oversight by the AER.¹¹⁴</p> <p>Any amendments to the standard OTSA must also comply with these requirements.^{115, 116}</p>

¹⁰⁹ See section 228J of the NGL.

¹¹⁰ See rule 632 of the NGR.

¹¹¹ See rule 596(3) of the NGR.

¹¹² See rule 632 of the NGR.

¹¹³ See Part 5 of the Code.

¹¹⁴ See rule 635 of the NGR.

¹¹⁵ If a new version of the standard OTSA is published, the transportation service provider must publish a version showing the amendments that have been made.

¹¹⁶ See rule 633 of the NGR.



Design Element	Detail
Transportation service provider obligations	<p>Part 24 facilities: Transportation service providers for Part 24 facilities are required to prepare and publish¹¹⁷ a standard OTSA for each facility they operate¹¹⁸ that complies with the relevant provisions in the NGR and the Code and, subject to some limitations, must offer to enter into such an agreement if requested to do so by a prospective user.¹¹⁹ These service providers must also publish and keep up to date the contact details of the representative to whom a request for a standard OTSA can be sent and the information to be included with a request for a standard OTSA.¹²⁰</p> <p>Conditionally exempt facilities: Transportation service providers for conditionally exempt facilities must prepare a standard OTSA that complies with the NGR and the Code and offer to enter into such an agreement if they receive an eligible request¹²¹ from a prospective user.¹²²</p>
Service provider costs	<p>Standardisation costs: Transportation service providers will have an opportunity to recover the reasonable incremental costs incurred exclusively in establishing and maintaining standard OTSAs and the systems and processes required to comply with obligations in the NGR and CT&A Procedures (or a proportionate share of any incremental costs reasonably attributable to maintaining these arrangements), subject to the caveat that the costs are only recovered once, and auction revenue is treated as a contribution to cost recovery.¹²³</p> <p>Standardisation charges: The charges levied by transportation service providers must: in so far as practicable reflect the outcomes of a workably competitive market; provide for the allocation of costs among users in a reasonable manner; and provide for the recovery of costs over time in a manner that promotes efficient trade in, and use of, capacity.¹²⁴</p>
Compliance monitoring for standard OTSAs and standardisation costs/charges	The AER must conduct a review of the compliance of all transportation service providers' standard OTSAs and standardisation costs/charges with the NGR and Code within the first 12 months of the capacity trading platform and auction being implemented. ¹²⁵ The AER also has an ongoing power to monitor the compliance of standard OTSAs and the standardisation charges specified in these agreements and may review those agreements or charges either of its own volition or in response to a request by a user. If an OTSA or the charges are found not to comply with the Code or NGR, the AER may require amendments. ¹²⁶
Operational Transportation Service Code (Code) content	<p>The standard OTSA prepared by a transportation service provider must comply with the relevant provisions in the NGR and the Code.</p> <p>The Code contains:¹²⁷</p> <ul style="list-style-type: none"> ▪ a description of the standard operational transportation services and the terms and conditions for the provision and use of those services; ▪ a description of, and requirements for, facility specific terms; and ▪ a form of agreement for execution by the parties, which will automatically incorporate any changes that are made to the standard terms and a facility's facility specific terms.

¹¹⁷ Note that the obligation to publish in this case means to make publicly available on the service provider's website.

¹¹⁸ See section 228B of the NGL and 631 of the NGR.

¹¹⁹ See section 228C of the NGL and rule 637 of the NGR.

¹²⁰ See rule 636 of the NGR.

¹²¹ An eligible request is one made by a prospective secondary shipper that meets the eligibility criteria specified in the NGR and intends to enter into the agreement and use its reasonable endeavours to procure transportation capacity on the facility.

¹²² See section 228C of the NGL and rule 611(6) of the NGR.

¹²³ See rule 634(1)-(3)(a)-(b) of the NGR.

¹²⁴ See rule 634(3)(c) of the NGR.

¹²⁵ See Schedule 5, Part 3, rule 7 of the NGR.

¹²⁶ See rule 635 of the NGR.

¹²⁷ See rule 596 of the NGR.



Design Element	Detail
Code governance	<p>The Code is subject to the hybrid governance model set out in Chapter 3.¹²⁸ Under this governance model, the AER has the power to approve, reject or remit a proposed change. It also has the power to amend the Code on its own initiative, but before doing so must request advice from the Panel and AEMO, and consult with interested parties.¹²⁹ The AER may also seek advice from the AEMC and industry or consumer representatives. In deciding whether to amend the Code, the AER:¹³⁰</p> <ul style="list-style-type: none"> ▪ must take into account the Code objective,¹³¹ give effect to the requirements for the Code specified in the NGR and the operational and technical requirements necessary for the safe and reliable operation of transportation facilities; and ▪ may take into account the legitimate business interests of transportation services providers and the interests of all persons that have a right to use transportation facilities.
Measures to overcome contractual limitations on capacity trading	
Amending facility agreements	<p>To ensure that contractual limitations in facility agreements (primary facility agreements and OTSAs) do not act as a barrier to trade, transportation service providers of Part 24 facilities and conditionally exempt facilities must, within 30 business days of a request (or 45 business days during the transitional period leading up to the commencement of the auction and capacity trading platform), provide users an amending facility agreement that:¹³²</p> <ul style="list-style-type: none"> ▪ enables the user to sell the capacity, which is the subject of the agreement, for use under an OTSA; and ▪ gives effect to the facilitation of trade principles in the NGR.¹³³ <p>Transportation service providers and shippers must negotiate any amendments in good faith, but if a dispute arises, the relevant dispute resolution provisions in the facility agreement apply or, in the event such provisions do not apply, either party may refer the matter for determination by an expert.</p>
New facility agreements	<p>Any new facility agreements entered into for services provided by a Part 24 facility or a conditionally exempt facility after the commencement of Part 24 of the NGR, must permit a shipper to sell capacity under an OTSA and give effect to the facilitation of trade principles in the NGR.¹³⁴</p>
Receipt and delivery point changes	<p>Provisions have been included in the NGR to provide shippers and transportation service providers with greater guidance on:¹³⁵</p> <ul style="list-style-type: none"> ▪ the rights shippers have to seek a change to their receipt or delivery points and the circumstances in which consent can be withheld by a transportation service provider; ▪ the timeframes within which transportation service providers must respond to a request to change a receipt or delivery point; and ▪ the charges that transportation service providers can levy for, or conditions they can impose on, receipt or delivery point changes, which must be reasonable.

¹²⁸ See rules 599-609 of the NGR.

¹²⁹ Consultation will be required unless the modification is non-material or urgently necessary to ensure the proper operation of the auction or the capacity trading platform, or the safe and reliable operation of one or more facilities.

¹³⁰ See rule 605 of the NGR.

¹³¹ The Code objective is to provide for access to operational transportation services on reasonable terms, which is taken to mean at prices and on other terms and conditions that, so far as practical, reflect the outcomes of a workably competitive market.

¹³² See rule 640 and Schedule 5, Part 3, rule 9 of the NGR

¹³³ See rule 642 of the NGR.

¹³⁴ See rule 641 of the NGR.

¹³⁵ See rule 643 of the NGR.



Design Element	Detail
Transaction support arrangements	
Transaction support arrangements	<p>To facilitate trade conducted through the capacity trading platform and day-ahead auction, transportation service providers of Part 24 facilities are required to comply with the transaction support arrangements in the CT&A Procedures¹³⁶ and, subject to some limitations, give effect to operational transfers.¹³⁷ Amongst other things, the transaction support arrangements in these procedures set out:¹³⁸</p> <ul style="list-style-type: none"> ▪ the process, form and timing of the exchanges of information between AEMO and transportation service providers and the validation process; ▪ the contingency arrangements that will apply if there is a failure of systems or processes or default in the performance of obligations; ▪ the circumstances in which transportation service providers can decline to give effect to a transfer; ▪ the method to be used to determine the amount to be paid to transportation service providers if a primary facility agreement is terminated and an exchange trade is still on foot, which will be determined by reference to the price (or prices) at which the primary shipper sold the capacity; and ▪ other obligations transportation service providers will have, including: arrangements for access to and use of the systems established by AEMO; the provision of contract reference information and information about service points, nominations and curtailments; the information required and processes to be followed to give effect to trades on the exchange or through the day-ahead auction; and integration with other markets. <p>Facility operators for Part 24 facilities must also provide AEMO with information about facility agreements to allow the accurate identification of those agreements for the purposes of the transaction support arrangements.¹³⁹</p> <p>While transportation service providers of conditionally exempt facilities are not required to comply with the transaction support arrangements, they must give effect to operational transfers notified by parties to the transaction.¹⁴⁰</p>
Specification of zones, pipeline segments and service points	
Service points	<p>Facility operators for Part 24 facilities must provide AEMO and keep up to date a specification of each service point (e.g. receipt point, delivery point, notional point, in-pipe trading points) at or between which transportation services are provided and each park service point, in accordance with the CT&A Procedures.¹⁴¹</p>

¹³⁶ See section 91BRQ of the NGL.

¹³⁷ See rule 638 of the NGR.

¹³⁸ See rule 135EA of the NGR and other rules in Parts 24 and 25 of the NGR.

¹³⁹ See rule 625 of the NGR.

¹⁴⁰ See rule 638(3) of the NGR.

¹⁴¹ See rule 626 of the NGR.

Design Element	Detail
Determination of zones and pipeline segments	<p>AEMO is responsible for determining the zones and pipeline segments that will be used in the capacity trading platform and the auction, following consultation with interested parties.¹⁴² The CT&A Procedures must set out the arrangements AEMO will use to consult on and determine the zones and pipeline segments, the information to be published in the consultation process, time frames and confidentiality arrangements.¹⁴³</p> <p>When making a decision about zones AEMO may have regard to:¹⁴⁴</p> <ul style="list-style-type: none"> ▪ the impact of the proposed allocation of points on trade in auction and exchange products, including the impact on demand or liquidity; ▪ the possible curtailment of capacity transferred between points within a zone, over time or at particular times or in particular conditions; and ▪ the operational and technical characteristics of the pipeline. <p>Provisions in the NGR require facility operators to provide AEMO with the information it reasonably requires for the assessment of the proposed zone and to undertake any analysis of proposed zones required by AEMO.¹⁴⁵</p> <p>Once the zones are established, AEMO must publish information provided by transportation service providers relating to curtailment of capacity transferred within a zone, so shippers can analyse deliverability risks.¹⁴⁶</p> <p>AEMO must also publish and maintain a transportation service point register that sets out the service points, pipeline segments and zones and identifies those service points that are DWGM and STTM interface points.¹⁴⁷</p>

¹⁴² See rule 627(1)-(2) of the NGR.

¹⁴³ See rule 627(3) of the NGR.

¹⁴⁴ See rule 628 of the NGR.

¹⁴⁵ See rule 627(4) of the NGR.

¹⁴⁶ See rule 629(2) of the NGR.

¹⁴⁷ See rules 629(1) and 630(1) of the NGR.

5.2 Legal and regulatory framework

To implement the measures outlined above, a number of changes have been made to the NGL, the Regulations and the NGR. The Code has also been developed. Further detail on these instruments is provided below.

5.2.1 Changes to the NGL

To give effect to the final design of the measures required to facilitate capacity trading and the day-ahead auction the NGL has been amended to expand the functions and powers of the AEMC, the AER and AEMO. These amendments include:

- Extending the subject matter of the NGR¹⁴⁸ and the scope of the AEMC's rule making functions to include the measures outlined in section 5.1.¹⁴⁹
- According the AER the power to make and amend the Code.¹⁵⁰
- Amending AEMO's functions and powers to allow it to:
 - establish, operate and administer transaction support arrangements¹⁵¹ and conduct relevant trials;¹⁵²
 - make the CT&A Procedures, require AEMO and people to whom the procedures apply to comply with the CT&A Procedures, and set out what AEMO is required to do if it suspects these procedures have been breached;¹⁵³ and
 - disclose protected information if necessary for the proper operation of the day-ahead auction or the CT&A Procedures.¹⁵⁴

A new chapter (Chapter 7A Access to operational transportation services) has also been included in the NGL, which sets out a number of matters relating to:

- the standard OTSA, including:
 - the obligation that transportation service providers have to prepare, publish, update and offer to enter into standard OTSAs;¹⁵⁵
 - the requirements for the standard OTSA that the NGR may make provision for (e.g. the form and content of a standard OTSA);¹⁵⁶ and
 - the clarification that transportation service providers and shippers may enter into an OTSA that differs from its standard OTSA;¹⁵⁷

¹⁴⁸ See Schedule 1 (items 56 and 68A to 68M) of the NGL.

¹⁴⁹ See the various amendments to section 74 of the NGL.

¹⁵⁰ See section 27(1)(ea) of the NGL.

¹⁵¹ See section 91A(1)(gc) of the NGL.

¹⁵² See section 91A(1)(ba) of the NGL.

¹⁵³ See Division 2D, Chapter 2, Part 6 of the NGL (sections 91BRO-91BRQ).

¹⁵⁴ See section 91GG of the NGL.

¹⁵⁵ See sections 228B(1) and (2), and 228C(1) of the NGL.

¹⁵⁶ See section 228E of the NGL.

¹⁵⁷ See section 228F of the NGL.



- the Code, including providing for the AER to amend the Code and specifying the matters that the Code is intended to deal with.¹⁵⁸
- access to operational transportation services, including:
 - the service requirements that may be specified in the NGR;¹⁵⁹
 - the requirement for sellers in bilateral trades to state the terms on which the trade will be conducted using an OTSA if requested by the buyer;¹⁶⁰
 - the prohibition on transportation service providers, shippers and their associates from engaging in conduct that prevents or hinders access to operational transportation services;¹⁶¹ and
 - the prohibition on transportation service providers from engaging in price discrimination when providing operational transportation services unless it is conducive to efficient service provision.¹⁶²

5.2.2 Changes to the NGR

The changes to the NGR that are required to facilitate capacity trading and the auction are set out in **Part 24 (Facilitating capacity trades and the capacity auction)**, which is a new part of the NGR. In addition to the exemptions and registration provisions outlined in Chapter 4, this part of the NGR contains provisions relating to:

- the objective and content of the Code and how the Code can be amended;
- the CT&A Procedures, including the transaction support arrangements;
- the standard OTSAs that transportation service providers of Part 24 facilities and conditionally exempt facilities must prepare and offer to enter into;
- the obligations that transportation service providers have to comply with a number of measures to facilitate trade and to overcome contractual limitations on trading; and
- the information standard to be employed by market participants when recording and/or providing the information specified in parts 24 and 25 of the NGR.

While a number of provisions in this part of the NGR apply to facility operators (i.e. the registered transportation service provider for a Part 24 facility) there are also a number of provisions that apply to transportation service providers of Part 24 facilities. This distinction has been made to allow a single entity within a corporate group to register with AEMO and set up the communications and billing interface under the CT&A Procedures while also allowing for a different entity within the group to be the entity that enters into facility agreements.

Code

Division 2 of Part 24 of the NGR, sets out the rules relating to the Code, with sub-division 2.1 focusing on the objective and content of the Code while sub-divisions 2.2 and 2.3 set

¹⁵⁸ See Part 2 of Chapter 7A of the NGL (sections 228G-228H).

¹⁵⁹ See section 228I of the NGL.

¹⁶⁰ See section 228J of the NGL.

¹⁶¹ See section 228K of the NGL.

¹⁶² See section 228L of the NGL.



out how the Code can be amended over time and the role to be played by the Panel and the AER.

Specifically, sub-division 2.1 sets out:

- The Code objective, which is to provide for access to operational transportation services on reasonable terms (i.e. at prices and on other terms and conditions that, so far as practical, reflect the outcomes of a workably competitive market).¹⁶³
- The content of the Code, which must include:¹⁶⁴
 - a description of each standard operational transportation service;
 - the terms and conditions for the provision and use of standard operational transportation services;
 - a description of, and the requirements for, facility specific terms for the provision and use of standard operational transportation services; and
 - a form of agreement for execution by the parties that incorporates the standard terms and facility specific terms.
- The scope of the standard operational transportation services and auction services that may be included in the Code and the requirement for forward haul and compression services to be provided using the zonal model.¹⁶⁵
- The matters that may be dealt with as standard terms in the Code.¹⁶⁶ and
- The requirements for facility specific terms that must be included in the Code, which must include principles that transportation service providers must comply with and which must be consistent with the Code objective.¹⁶⁷
- The requirement that the Code must, to the extent reasonably practicable, provide for the terms and conditions to be specified in the standard terms (in preference to facility specific terms).¹⁶⁸

Sub-divisions 2.2 and 2.3:

- Allow stakeholders to propose changes to the Code and set out the framework for these proposed amendments to be consulted upon and assessed by the Panel¹⁶⁹ before making a recommendation to the AER.
- Provide for the establishment of the Panel by AEMO and also set out:
 - the functions of the Panel;¹⁷⁰
 - the constitution of the Panel, which will be chaired by AEMO;¹⁷¹
 - the nomination, election and appointment process for the Panel;¹⁷²

¹⁶³ See rule 595(1) of the NGR.

¹⁶⁴ See rule 596 of the NGR.

¹⁶⁵ See rule 597(1)-(4) of the NGR.

¹⁶⁶ See rule 598(1) of the NGR.

¹⁶⁷ See rule 598(2) of the NGR.

¹⁶⁸ See rule 596(3) of the NGR.

¹⁶⁹ See rules 601 and 602 of the NGR.

¹⁷⁰ See rule 600 of the NGR.

¹⁷¹ See rule 606 of the NGR.

¹⁷² See rule 607 of the NGR.



- the obligations of Panel members;¹⁷³
- the requirements for meetings of the Panel;¹⁷⁴ and
- the obligation that AEMO has to develop, maintain and publish the Panel's election procedures and operation manual.¹⁷⁵
- Provide for the AER to make and amend the Code on the advice of the Panel, or on its own initiative¹⁷⁶ and set out the principles the AER must have regard to when making a decision to amend the Code.¹⁷⁷

CT&A Procedures and transaction support arrangements

Division 4 of Part 24 sets out a number of transaction support related arrangements that can be included in CT&A Procedures. Provisions in this division also:

- Require facility operators to provide AEMO with:
 - information on the facility agreements for Part 24 facilities to facilitate the transaction support arrangements;¹⁷⁸
 - a specification for each service point at or between which transportation services are, or may be, provided by means of the Part 24 facility;¹⁷⁹ and
 - the information reasonably required by AEMO to analyse and assess a proposed zone or pipeline segment and the results of any modelling or other analysis of a proposed zone or pipeline segment, together with the information required by AEMO to analyse the model and the results.¹⁸⁰
- Provide for AEMO to consult on and determine:¹⁸¹
 - the allocation of service points to zones, having regard to the principles specified in the NGR; and
 - the forward haul pipeline segments and backhaul pipeline segments to be used in the day-ahead auction.
- Require AEMO to maintain a transportation service point register that sets out the service points, pipeline segments and zones used in the capacity trading platform and day-ahead auction¹⁸² and specifies for each pipeline service point and zone if it is a DWGM or STTM interface point.¹⁸³

Standard OTSAs

Division 5 of Part 24 sets out transportation service providers' obligations in relation to standard OTSAs, including provisions that:

¹⁷³ See rule 608 of the NGR.

¹⁷⁴ See rule 609 of the NGR.

¹⁷⁵ See rules 599 and 609 of the NGR.

¹⁷⁶ See rules 603 and 604 of the NGR.

¹⁷⁷ See rule 605 of the NGR.

¹⁷⁸ See rule 625 of the NGR.

¹⁷⁹ See rule 626 of the NGR.

¹⁸⁰ See rule 627(4) of the NGR.

¹⁸¹ See rules 627 and 628 of the NGR.

¹⁸² See rule 629 of the NGR.

¹⁸³ See rule 630 of the NGR.

- Require transportation service providers of Part 24 facilities to:
 - prepare, publish and amend standard OTSAs and ensure those agreements comply with the Code and the NGR;¹⁸⁴ and
 - offer to enter into standard OTSAs with prospective secondary shippers if they meet the eligibility criteria in the NGR within the time specified in the NGR.¹⁸⁵

As noted in Table 5.1, the transportation service provider for a conditionally exempt transportation facility must also prepare a standard OTSA that complies with the Code and the NGR and make an offer to enter into the agreement with a prospective shipper that meets the eligibility criteria within the time specified in the NGR. These obligations are set out in Division 3 of the NGR rather than Division 5 of the NGR.

- Set out the requirements for standard OTSA requests, including the eligibility criteria that a prospective secondary shipper must satisfy to be offered a standard OTSA.¹⁸⁶
- Require transportation service providers to comply with the standardisation cost recovery and charging principles in the NGR and to publish: ¹⁸⁷
 - a schedule of standardisation charges (including charges levied under standard OTSAs and other agreements); and
 - information in reasonable detail to explain how the standardisation costs were incurred, how the proceeds of the auction are taken into account and how the schedule of charges has been calculated.
- Provide for the AER to review transportation service providers' standard OTSAs and the standardisation charges contained therein at any time either of its own volition or in response to a request by a shipper.¹⁸⁸ If the AER is not satisfied that the OTSA or charges comply with the NGR or the Code (or where applicable, the conditions of an exemption), the AER may require the transportation service provider to amend the standard OTSA within a specified time. The cost recovery and charging principles in the NGR have been classified as civil penalty and conduct provisions, so the AER and/or affected shippers could take other enforcement action if the standardisation charges are found not to comply with these principles.

Other transportation service provider obligations

Division 6 of Part 24 of the NGR sets out a number of obligations that transportation service providers of Part 24 facilities and conditionally exempt facilities must comply with, including the obligation they have to:

- give effect to operational transfers notified to them by AEMO (for trades conducted through the capacity trading platform) or the trading parties (for trades conducted bilaterally); ¹⁸⁹

¹⁸⁴ See rules 631-633 of the NGR.

¹⁸⁵ See rule 637 of the NGR.

¹⁸⁶ See rule 636 of the NGR.

¹⁸⁷ See rule 634 of the NGR.

¹⁸⁸ See rule 635 of the NGR.

¹⁸⁹ See rule 638 of the NGR.



- honour capacity trades conducted through the exchange if the primary facility agreement from which the capacity was first derived is terminated or suspended for the period specified in the NGR (see Table 6.1 for more detail);¹⁹⁰
- provide a shipper with an amending facility agreement that permits the user to sell capacity for use under an OTSA and gives effect to the facilitation of trade principles in rule 642 within the time specified in the NGR if requested to do so by the shipper;¹⁹¹
- ensure that any new facility agreements entered into after the commencement of Part 24 of the NGR permit the shipper to sell capacity for use under an OTSA and gives effect to the facilitation of trade principles in rule 642 of the NGR;¹⁹² and
- comply with the use of additional pipeline service point provisions in the NGR when responding to a request by a shipper to add receipt and delivery points.¹⁹³

Information standard

The NGR defines the information standard that transportation service providers and transportation facility users must employ when recording and/or providing the information specified in parts 24 and 25 of the NGR to AEMO or the AER (the 'Part 24 information standard').¹⁹⁴ This information standard, which is akin to the Bulletin Board information standard in Part 18 of the NGR, requires the use of:

"...the practices, methods and acts that would reasonably be expected from an experienced and competent person engaged in the ownership, operation or control of a transportation facility of the applicable type acting with all due diligence, prudence and foresight and in compliance with all applicable legislation (including these rules), authorisations and industry codes of practice."

Transitional provisions

To deal with some of the transitional issues associated with the measures outlined above, a number of transitional rules have been included in Schedule 5 of the NGR. These transitional rules:

- Prevent any amendments to the Code taking effect within 12 months of the amendments to the NGR commencing unless the AER considers that the amendment to the Code is:¹⁹⁵
 - urgently necessary to ensure:
 - the proper operation of the capacity trading platform or day-ahead auction; or
 - the safe and reliable operation of one or more transportation facilities; or
 - non-material (that is, the amendment corrects a minor error in the Code or is unlikely to have a significant financial or operational impact).

¹⁹⁰ See rule 639 of the NGR.

¹⁹¹ See rules 640 and 642 of the NGR.

¹⁹² See rule 641 of the NGR.

¹⁹³ See rule 643 of the NGR.

¹⁹⁴ See the definition in rule 593(1) and rules 593(4) and 649 of the NGR.

¹⁹⁵ See Schedule 5, Part 3, rule 2 of the NGR.

- Require AEMO to maintain and publish an initial transportation service point register by 1 December 2018 (or, if amendments to the NGL commence after that date, then 20 business days after the commencement date).¹⁹⁶
- Provide for the AER to review and report on compliance by transportation service providers with their obligations (including the setting of standardisation charges) in relation to standard OTSAs within 12 months of the commencement of the day-ahead auction.¹⁹⁷
- Make it clear that the obligation for facility operators to give effect to operational transfers arising from trades conducted through the capacity trading platform will not commence until the date the day-ahead auction commences.¹⁹⁸
- Give transportation service providers of Part 24 facilities or conditionally exempt facilities 45 business days, rather than 30 business days, to prepare an amending agreement for an existing facility agreement if they receive a request to do so before the auction commences.¹⁹⁹

5.2.3 Changes to the Regulations

Schedules 3 and 4 of the Regulations have been amended to classify a number of the provisions outlined in this Chapter as civil penalty and conduct provisions. A list of these provisions is set out in the table below.

Table 5.2: Civil penalty and conduct provisions

Provision		Type of penalty
NGL		
Section 91BRQ(5)	Transportation service providers must comply with AEMO's direction to rectify or take specified measures concerning suspected breach of the CT&A Procedures	Civil penalty
Section 228B	Transportation service providers for Part 24 facilities must prepare and publish a standard OTSA on its website that complies with the NGR and Code	Civil penalty
Section 228C	Transportation service providers must, on request from a shipper, offer to enter into a standard OTSA and, if the offer is accepted, enter into the agreement	Civil penalty and conduct provision
Section 228J	Sellers in bilateral trades must, when requested by the buyer in the trade, state the terms under which it will transfer operational transportation capacity under an OTSA	Conduct provision
Section 228K	Transportation service providers (or associates) and transportation facility users (or associates) must not engage in conduct for the purpose of preventing or hindering the access of another person to an operational service	Civil penalty and conduct provision
Section 228L	Transportation service providers must not engage in inefficient price discrimination when providing operational transportation services	Civil penalty and conduct provision

¹⁹⁶ See Schedule 5, Part 3, rule 6 of the NGR.

¹⁹⁷ See Schedule 5, Part 3, rule 7 of the NGR.

¹⁹⁸ See Schedule 5, Part 3, rule 8 of the NGR.

¹⁹⁹ See Schedule 5, Part 3, rule 9 of the NGR.

Provision		Type of penalty
Part 24 of the NGR		
Rule 593(4)	Transportation service providers or transportation facility users required by Part 24 to make a record or give information or data to AEMO, the AER or a transportation facility user, including resulting from calculations, must prepare and submit that information or data and perform those calculations in accordance with the Part 24 information standard	Civil penalty and conduct provision
Rule 634(3)	Transportation service providers must not recover standardisation costs more than once, must treat auction proceeds as a contribution to cost recovery and must comply with other requirements in relation to cost recovery	Civil penalty and conduct provision
Rule 634(4)	Transportation service providers required to publish an OTSA must also publish a schedule of charges	Civil penalty and conduct provision
Rule 634(5)	Transportation service providers must make a record of their standardisation costs and how they have been taken into account in the schedule of charges	Civil penalty and conduct provision
Rule 636(1)	Transportation service providers for Part 24 facilities must publish information about how to request a standard OTSA and must keep it up to date	Civil penalty and conduct provision
Rule 636(4)	If information included in a request for a standard OTSA is incomplete, transportation service providers must inform the prospective secondary shipper	Civil penalty and conduct provision
Rule 638(1)	Transportation service providers for Part 24 facilities must give effect to an operational transfer notified by AEMO	Civil penalty and conduct provision
Rule 638(3)	Transportation service providers for Part 24 facilities or conditionally exempt facilities must give effect to bilateral trades notified by the parties to the transaction	Civil penalty and conduct provision
Rule 640(1)	Transportation service providers for Part 24 facilities or conditionally exempt facilities must within 30 business days of a request made by a shipper give that user an amending agreement that complies with the relevant provisions in the NGR	Civil penalty and conduct provision
Rule 641(1)	New facility agreements must permit shippers to sell capacity for use under an OTSA	Conduct provision
Rule 641(2)	The terms in a new facility agreement must give effect to the facilitation of trade principles in rule 642	Conduct provision
Rule 643(5)	Transportation service providers must not unreasonably withhold or delay their consent to a request by a shipper to use an additional service point	Conduct provision
Rule 643(6)	Transportation service providers may make their consent to use an additional service point conditional on consent from a third party in particular circumstances	Conduct provision
Rule 643(9)	Transportation service providers must provide information reasonably required to understand additional charges payable for use of an additional service point	Conduct provision
Rule 644(2)	Transportation service providers that are not the facility operator must comply with the auction priority principles and scheduling requirements set out in rules 650(2) and (3) of the NGR as if they were the facility operator	Civil penalty and conduct provision
Rule 644(3)	Transportation service providers that are not the facility operator must give effect to the auction results (see rule 655 of the NGR) as if they were the facility operator	Civil penalty and conduct provision

Provision		Type of penalty
Transitional rules – Schedule 5 of NGR		
Schedule 5, Part 3, rule 9(1)	Prior to the auction start date, transportation service providers for Part 24 facilities or conditionally exempt facilities in receipt of a request from a shipper to amend its existing facility agreement must provide the amending agreement within 45 business days of request	Civil penalty and conduct provision

5.2.4 Operational Transportation Service Code

The Code is a new regulatory instrument that, in conjunction with provisions in the NGR, will govern the content of the standard OTSAs that transportation service providers of Part 24 facilities and conditionally exempt facilities must prepare and offer to enter into if requested to do so by a shipper. The standard OTSA may then be used by a shipper that procures capacity through the capacity trading platform, the day-ahead auction or bilaterally.

The objective of the Code is to provide for access to operational transportation services on reasonable terms, which is taken to mean at prices and on other terms and conditions that, so far as practical, reflect the outcomes of a workably competitive market.²⁰⁰

In keeping with the requirements in the NGR the initial Code contains:

- A description of the initial set of standard operational transportation services, which include:
 - the traded forward haul service, the traded park service and the traded compression service, which will be available on the capacity trading platform; and
 - the forward haul auction service, the backhaul auction service and the compression auction service, which will be available through the day-ahead auction.

Provision has also been made in the initial Code for shippers to trade other types of contractual entitlements (e.g. hourly entitlements and imbalance entitlements) bilaterally, subject to the caveat that transfers of these entitlements do not adversely affect the operational integrity of the facility.

- The standard terms and conditions that apply to the provision and use of the standard operational transportation services and which must form part of each transportation service provider's standard OTSA,
- A description of the facility specific terms that transportation service providers can include in their standard OTSAs and the requirements for such terms (e.g. the facility specific terms must be consistent with equivalent terms in an AER approved access arrangement or the terms in primary facility agreements).
- The form of agreement for execution by the parties, which incorporates the standard terms, the transportation service provider's facility specific terms and any amendments to the standard terms or facility specific terms made from time to time.

²⁰⁰ See rule 595(1) of the NGR.

6. Capacity trading platform

The capacity trading reform package provides for the development of a capacity trading platform that can be used by shippers to trade any spare transportation capacity they may have prior to the nomination cut-off time on gas day D-1. Shippers will be able to use the capacity trading platform to trade capacity using either:

- **the exchange**, which will enable standardised transportation products to be traded through screen trading or the pre-matched trade service;²⁰¹ or
- **the listing service**, which will be able to enable more bespoke transportation products (including imbalances) to be listed and traded bilaterally (i.e. off-market trades).

The capacity trading platform will be operated and administered by AEMO and form part of the GSH.

The capacity trading platform is intended to facilitate a greater level of capacity trading by:

- making capacity products more fungible through the standardisation of exchange traded services;
- incorporating the trading platform into the GSH, which is easy to use, enables quick and effective execution of trades, provides certainty of outcomes, effectively manages financial and delivery default risks and provides for the aggregation of prudential requirements across products;
- allowing shippers to readily co-ordinate trades across transportation facilities and to procure gas and other gas services through a single trading platform;
- using the zonal model (with secondary firm rights at individual service points) to facilitate competition for the provision and use of secondary capacity;
- reducing the search and transaction costs associated with procuring secondary capacity and aiding the price discovery process; and
- instilling confidence in the secondary market through the use of robust delivery, settlement, credit, curtailment and other risk management processes and governance arrangements.

Further detail on capacity trading platform is provided below, along with an overview of the changes that have been made to the NGL, NGR and Regulations to give effect to this element of the reform package.

6.1 Overview of the capacity trading platform

Table 6.1 contains a summary of the final design of the capacity trading platform. This table should be read in conjunction with GMRG's final recommendations on the design of the capacity trading platform, which were provided to the Energy Council in November 2017.²⁰²

²⁰¹ The pre-matched service allows participants to bring off-market trades in listed products to the exchange for settlement.

²⁰² See GMRG, Final Recommendations on the Capacity Trading Reform Package (Standardisation, capacity trading platform and reporting framework for secondary trades), November 2017 and GMRG, Final Recommendations on the Operations and Administration of the Transportation Capacity Trading Platform and Day-Ahead Action, June 2017.

Table 6.1: Final design of the capacity trading platform

Design Element	Detail
Start date for trade on the capacity trading platform	<p>The obligation for Part 24 facilities to give effect to trades conducted through capacity trading platform will commence on 1 March 2019 (or if the rules are made after 1 December 2018, then trade will commence 60 business days after the rules are made).^{203,204}</p> <p>If a transportation facility later becomes a Part 24 facility (e.g. because it is commissioned after the trading platform commences or its exemption is revoked), the transportation service provider's obligation to give effect to trades carried out through the capacity trading platform will commence 120 business days after the date on which the facility becomes subject to the reforms²⁰⁵ (see Chapter 10 for more detail).</p>
Operation of the capacity trading platform	<p>The capacity trading platform will be operated by AEMO and form part of the GSH. The capacity trading platform will provide for both:</p> <ul style="list-style-type: none"> ▪ Exchange-based trading of commonly traded transportation (pipeline and compression) products on Part 24 facilities, which can be conducted through either: <ul style="list-style-type: none"> – the screen trade service, which allows anonymous bids or offers to be placed on standardised products that are automatically matched; or – the pre-matched trade service, which allows participants to bring a bilateral trade in one of the listed products to the exchange for settlement. The screen trade service will operate on a fully anonymous basis (i.e. the names of counterparties will not be revealed pre or post-transaction), with AEMO informing the transportation service provider of the trade and the transportation service provider then confirming and giving effect to the trade. The process for validating trades will be set out in the transaction support arrangements that will form part of the CT&A Procedures.²⁰⁶ ▪ A listing service that shippers can use to list other more bespoke products and imbalance trades on any transportation facilities. <p>Trades conducted through the exchange will use the existing GSH settlement, prudential and reporting frameworks, which means participants will receive one settlement statement for all products and be able to aggregate prudential requirements across gas and secondary capacity products.</p>
Participation in the exchange	<p>To trade capacity through the exchange, shippers must enter into the Exchange Agreement with AEMO. To use the capacity procured through the auction, shippers must also have an OTSA in place with the relevant transportation service provider (see Chapter 5 for detail).</p>
Initial set of services to be listed on the exchange	<p>The initial set of standardised products to be sold on the exchange include:²⁰⁷</p> <ul style="list-style-type: none"> ▪ firm forward haul services on transmission pipelines (if the pipeline is bi-directional,²⁰⁸ services will be available in each direction); ▪ firm compression services; and ▪ firm park (storage) services on transmission pipelines that offer this service. <p>These services will have a minimum contract size of 500 GJ/day and will be available as: a day-ahead product; a daily product (available on a 6-day rolling basis); a weekly product (available on a 4-week rolling basis); and a monthly product (available on a 3-month rolling basis).²⁰⁹</p> <p>The terms and conditions on which the buyer can use these products will be set out in the transportation service provider's standard OTSA (or other agreement containing the terms for use of the service), which, amongst other things, will specify the hourly flexibility and imbalance allowance applicable to the product and provide for a reasonable endeavours renomination right.²¹⁰</p>

²⁰³ See Schedule 5, Part 3 (Transitional arrangements for new Part 24) Rule 8 and the definitions of Part 24 transition period and capacity auction start date.

²⁰⁴ Note that trade on the platform could commence prior to that date but only for products with a service term that starts after 1 March 2019.

²⁰⁵ See rule 638(4) of the NGR.

²⁰⁶ See rule 135EA of the NGR.

²⁰⁷ See rule 597 of the NGR and Part 4 of the Code.

²⁰⁸ A pipeline will be classified as bi-directional if at any time the direction of the physical flow of gas on the pipeline (or part) is capable of being reversed under normal operating conditions and transportation facility users have transportation capacity for firm forward haul services in both directions (with a service time that includes that time). See rule 648 of the NGR.

²⁰⁹ These product specifications will be set out in the exchange agreement.

²¹⁰ See the Code.



Design Element	Detail
Contract path	<p>Forward haul services on the CTP will be traded using the zonal model. Under the zonal model: ²¹¹</p> <ul style="list-style-type: none"> ▪ sellers will be able to sell point-to-point capacity on a zone-to-zone basis; and ▪ buyers will be able to acquire capacity on a zone-to-zone basis and will have secondary firm rights at receipt and delivery points in these zones. <p>The secondary firm rights concept is required under the zonal model because the capacity that is sold by the seller may be released from a different receipt or delivery point in the zone to the point the buyer intends to use in that zone and the capacity of individual points within a zone will usually be lower than the zonal capacity. To deal with these limitations, while also recognising the firm rights that primary shippers have to use receipt and delivery points, the secondary firm rights concept allows buyers to use any receipt or delivery points within a zone but their rights at those points are subordinate to primary shippers with firm rights at those points.</p> <p>At the time the trade is entered into or the transfer occurs, AEMO may require sellers to notify it of the receipt and delivery points they intend to release their capacity from and buyers to identify the points they intend to use. ²¹² This information will be provided to the relevant transportation service provider when the transfer occurs.</p>
Management of financial and delivery default risks	<p>Buyers using the exchange are exposed to two key risks:</p> <ul style="list-style-type: none"> ▪ The risk that the seller's primary facility agreement is terminated or suspended by the transportation service provider: ²¹³ <ul style="list-style-type: none"> – If the agreement is terminated, the transportation service provider will be obliged to notify AEMO of the termination of the primary facility agreement and to honour the transaction for up to 14 days after the notification is received. If this occurs, the transportation service provider will be entitled to be paid an amount determined by AEMO using the methodology set out in the CT&A Procedures, which must comply with the following requirements: ²¹⁴ <ul style="list-style-type: none"> ○ the amount payable must be determined by reference to the price (or prices) at which the terminated seller sold the capacity through the exchange; and ○ the amount payable must be determined in respect of the quantity of capacity the transportation service provider is required to continue to provide. – If the agreement is suspended, the transportation service provider will be obliged to honour the trade for the term of the trade. In contrast to a termination, the transportation service provider will not receive any payment for honouring the trade, because it will be expected to continue recovering the charges from the seller under the terms of the primary facility agreement. ▪ The risk that the seller's facility agreement does not provide for the services that have been sold. In this case, the arrangements in the CT&A Procedures will give the seller a short period of time to rectify the position. If it cannot be rectified, the trade will be cancelled, and the buyer(s) compensated under the delivery failure arrangements in the exchange agreement. Because individual counterparties will not be known, if a trade is cancelled all secondary shippers' capacity will be pro-rated down. In addition to this measure, exchange members are prohibited from short-selling capacity. ²¹⁵ When coupled with the prudential controls in the GSH, these provisions should discourage any uncovered speculative trading.

²¹¹ See rule 597(3) of the NGR.

²¹² See rule 597(5) of the NGR.

²¹³ See rule 639 of the NGR.

²¹⁴ See rule 536A of the NGR.

²¹⁵ See rule 543A of the NGR.



As Table 6.1 highlights, the initial set of services to be listed on the exchange will include firm forward haul services, firm stand-alone compression services and firm park (storage) services. While it will be possible to add other products to the exchange over time or to extend the term of the existing set of products, as a practical matter, a product can only be listed on the exchange if it can be 'delivered'. In the case of transportation services, 'delivery' requires the transportation service provider to agree to give effect to the trade. The reach of the platform is therefore constrained by the specification of standardised services in the Code. Any proposal to add different types of transportation services to the exchange (e.g. a loan service) would therefore require changes to the Code (unless a transportation service provider volunteers to put in place arrangements to allow the trade of other products).

6.2 Legal and regulatory framework

The capacity trading platform will form part of the GSH and will therefore be subject to the legal and regulatory framework that has been established for the GSH. An overview of this framework is provided in Table 7.2.

Table 6.2: Existing GSH legal and regulatory framework

Instrument	Description
NGL (Chapter 2, Part 6 Division 2B)	AEMO operates the GSH as one of its statutory functions under section 91BRK of the NGL. This section provides for AEMO to establish, operate and administer 'gas trading exchanges', which are defined as facilities through which persons may elect to buy and sell natural gas or related goods or services, including pipeline capacity. This section also allows AEMO to make and administer the exchange agreement.
Part 22 of the NGR	<p>Part 22 of the NGR sets out the rules relating to the GSH, including rules that set out:</p> <ul style="list-style-type: none"> the high level design parameters for the exchange; the arrangements for the determination of charges for delivery failures; the arrangements for becoming a member and AEMO's power to suspend a member; AEMO's ability to charge fees for establishing, operating and administering the exchange; the subject matter for the exchange agreement; and the market conduct rules the prohibition on short selling. <p>Part 22 can be amended by the AEMC through the usual rule change process. The AER monitors compliance and can investigate and enforce breaches under its general powers. It also has a specific duty under Part 22 of the NGR to monitor compliance with the market conduct rules.</p>
Exchange agreement	<p>The exchange agreement developed by AEMO (in accordance with the NGR and NGL), is a multilateral contract. It covers admission to the exchange, prudential requirements, operation of the exchange, product definition, delivery obligations and settlement. Some provisions (e.g. the Settlements and Prudential Methodology) are set out in subsidiary documents.</p> <p>The exchange agreement can be amended by AEMO over time to, for example, add new products, remove redundant products, or make refinements to existing products. Specifically, rule 540 allows any person to propose an amendment to the exchange agreement and states that AEMO can approve the amendment if it is satisfied:</p> <ol style="list-style-type: none"> the amendment is consistent with the NGL and the NGR; and the amendment is appropriate having regard to the NGO and the compliance costs likely to be incurred by AEMO and participants. <p>Before making a change, AEMO must consult with exchange members and any other persons AEMO thinks would be affected by the proposed amendment.</p>



Instrument	Description
GSH Subsidiary Documents	AEMO has the power to make procedures in accordance with the exchange agreement. The procedures AEMO has published to date include procedures on: reallocations (the Reallocation Procedure); the interface between systems (Interface Protocol); exchange fees; and security deposits.

While the capacity trading platform will largely rely on this existing framework, it has been necessary to make some amendments to the NGL, NGR and Regulations. Further detail on these amendments is provided below.

6.2.1 Changes to the NGL

To give effect to the final design of the capacity trading platform, the NGL has been amended to extend the subject matter of the NGR and the AEMC's rule making functions to include rules relating to:²¹⁶

- the obligations transportation service providers will have to facilitate operational transfers;²¹⁷
- the priority to be given to a transportation service;²¹⁸ and
- the use of an operational transportation service after a seller's primary facility agreement has been terminated or suspended.²¹⁹

The NGL has also been amended to extend the subject matter of the NGR and the AEMC's rule making functions to include the transaction support arrangements that will be used to give effect to trades conducted through the exchange (see Chapter 5 for more detail).²²⁰

6.2.2 Changes to the NGR

In keeping with the amendments that have been made to the NGL and the final design of this element of the reform package, provisions have been included in the NGR that:

- Specify the priority that capacity procured through the exchange will have if there is insufficient capacity at a service point on a day (i.e. buyers will have secondary firm rights at service points).²²¹
- Set out the obligations that transportation service providers have to give effect to operational transfers arising as a result of trades carried out through the exchange (subject to any transaction support arrangements in the CT&A Procedures and the terms and conditions of the applicable facility agreement).²²²
- Set out the obligations that transportation service providers will have to honour transactions conducted through the exchange that are given effect through an OTSA,

²¹⁶ See the amendments to sections 74, 228I and Schedule 1 of the NGL.

²¹⁷ See section 228I(e) of the NGL.

²¹⁸ See section 228I(c) of the NGL.

²¹⁹ See section 228I(f) of the NGL.

²²⁰ See section 74(1)(aac) of the NGL.

²²¹ See rule 597(3)(c) of the NGR.

²²² See rule 638 of the NGR.



which differ depending on whether the primary facility agreement has been terminated or suspended (see Table 6.1 for more detail).²²³

Provisions have also been included in Part 22 of the NGR to:

- prohibit short selling of transportation capacity;²²⁴ and
- give AEMO some flexibility to deal with the recovery of the costs of establishing, operating and administering the CT&A Procedures.²²⁵

These provisions are set out in Part 22 (Gas Trading Exchange) and Division 6 of Part 24 (Facilitating capacity trades and the capacity auction).

These provisions should be read in conjunction with:

- Other divisions in **Part 24 (Facilitating capacity trades and the capacity auction)**, which, amongst other things, set out:
 - the matters that must be dealt with in the Code, which include the specification of the standard operational transportation services that will be available on the exchange and the terms on which those services can be used;²²⁶
 - a number of matters to be dealt with in the CT&A Procedures, including:²²⁷
 - the process for obtaining information on the transportation facility agreements to be used to give effect to trades conducted through the exchange;²²⁸
 - the process for determining the zones and service points that will be used for capacity trades conducted through the exchange;²²⁹
 - the arrangements that will apply to capacity procured through the capacity trading platform at a DWGM or STTM interface point;²³⁰ and
 - the information that AEMO will publish on the Bulletin Board regarding the curtailment of capacity within a zone.²³¹
- **Part 18 (Natural Gas Services Bulletin Board)** of the NGR and the transitional rules in Schedule 5 (Part 5), which require additional information to be reported by transportation service providers to enable buyers to assess the risks associated with capacity procured through capacity trading platform (see Chapter 8 for more detail).

²²³ See rule 639 of the NGR.

²²⁴ See rule 543A of the NGR. The provisions in this rule are based on section 1020B of the *Corporations Act 2001* (Commonwealth) which is assumed to already apply to sales of gas through the exchange.

²²⁵ See rule 534 of the NGR.

²²⁶ See Subdivision 2.1, Part 24 of the NGR and in particular rule 597.

²²⁷ See Division 4, Part 24 of the NGR.

²²⁸ See rule 625 of the NGR.

²²⁹ See rules 627-628 of the NGR.

²³⁰ See rule 630 of the NGR.

²³¹ See rule 629 of the NGR.



6.2.3 Changes to the Regulations

Schedules 3 and 4 of the Regulations have been amended to classify a number of capacity trading platform related provisions as civil penalty or conduct provisions. A list of these provisions is set out in the table below.

Table 6.3: Civil penalty and conduct provisions

Provision	Summary of provision	Type of penalty
Part 22 of the NGR		
Rule 543A(1) and (2)	Gas trading exchange members must only sell transportation capacity through the GSH if at the time of the sale they have, or believe on reasonable grounds that they have, a right to transfer the capacity to the buyer (i.e. no short selling of transportation capacity)	Civil penalty and conduct provision
Part 24 of the NGR		
Rule 638(1)	Transportation service providers of Part 24 facilities must give effect to operational transfers notified by AEMO	Civil penalty and conduct provision
Rule 639(2)	Transportation service providers of Part 24 facilities must, in relation to traded capacity, give effect to each operational transfer and provide transportation services in respect of traded capacity derived from a terminated primary facility agreement during the service continuity period (i.e. for up to 14 days after the termination has been notified to AEMO)	Civil penalty and conduct provision
Rule 639(5)	Transportation service providers of Part 24 facilities must, in relation to traded capacity, give effect to each operational transfer and provide transportation services in respect of traded capacity derived from a suspended primary facility agreement for the term of the trade.	Civil penalty and conduct provision

7. Day-ahead auction

The day-ahead auction will enable auction participants to procure CBU capacity shortly after nomination cut-off time on gas day D-1. The auction, which will be operated and administered by AEMO, is expected to improve the efficiency with which short-term transportation capacity is allocated and used, by making this capacity available on a daily basis to shippers that value it most. The auction is expected to achieve this objective by:²³²

- improving the incentives that firm capacity holders have to release any spare capacity they may have through secondary trading prior to the auction; and
- limiting the ability of transportation service providers to price short-term capacity products above the levels that would be expected in a workably competitive market.

The day-ahead auction is also expected to overcome the co-ordination failures that can otherwise be associated with procuring day-ahead capacity. It will do so by enabling shippers to procure day-ahead capacity through a single bid in a market wide partial combinatorial auction that includes:

- all transmission pipelines with a nameplate rating of 10 TJ/day or more that are providing third party access and are used to service more than one shipper; and
- the Moomba, Wallumbilla, Ballera and Iona compression service facilities and any other stand-alone compressors that do not qualify for an exemption.

In addition to these benefits, the day-ahead auction is expected to:

- reduce the search and transaction costs associated with procuring day-ahead capacity and aid the price discovery process for day-ahead capacity; and
- instil confidence in the day-ahead auction through the use of robust delivery, settlement, credit, curtailment and other risk management processes and governance arrangements.

Further detail on the auction is provided below, along with an overview of the changes that have been made to the NGL, NGR and Regulations to give effect to this reform.

7.1 Overview of the day-ahead auction

Table 7.1 contains an overview of the final design of the day-ahead auction. This table should be read in conjunction with GMRG's final recommendations on the design of the day-ahead auction, which were provided to the Energy Council in December 2017.²³³

As noted in Chapter 1, a number of refinements have subsequently been made to the final design of the day-ahead auction, which reflect the outcome of additional work undertaken in early 2018. The refinements are summarised in Table 1.3.

²³² AEMC, Stage 2 Final Report: East Coast Review, 23 May 2016, pp. 69 and 73.

²³³ See GMRG, Final Recommendations on the Design of the Day-Ahead Auction of Contracted but Un-Nominated Capacity, December 2017.



Table 7.1: Final design of the day-ahead auction

Design Element	Detail
Start date for the auction	The day-ahead auction will commence on 1 March 2019 . ²³⁴ If a facility later becomes subject to the auction (e.g. because it is commissioned after the auction commences or its exemption is revoked), the auction will apply to the facility 120 business days after the date on which it becomes subject to the auction. ²³⁵
Operation of auction	AEMO is responsible for: <ul style="list-style-type: none"> ▪ establishing, operating and administering the auction²³⁶ and has the power to delay or cancel the auction or suspend²³⁷ the participation of an auction facility (or part thereof) for a period of time;²³⁸ and ▪ managing the billing and settlement of auction amounts.²³⁹ The auction's settlement, prudential and reporting frameworks are aligned with the GSH and allow prudential requirements to be aggregated across both markets where an exchange member is also an auction participant.²⁴⁰ AEMO may charge auction participants (or categories of participants) fees (auction fees) relating to the establishment, operation and administration of the capacity auction, but must consult with auction participants on the structure, introduction and determination of fees. ²⁴¹
Auction participation	To participate in the auction, shippers must enter into an auction agreement with AEMO. ²⁴² To use the capacity procured through the auction, shippers must also have an OTSA in place with the relevant transportation service provider (see Chapter 5 for detail). AEMO has the power to suspend or limit an auction participant's access to the auction and terminate an auction agreement in specified circumstances. If AEMO is entitled to terminate the auction agreement and the auction participant is also an exchange member, AEMO may also terminate the exchange agreement. ²⁴³

²³⁴ See Schedule 5, Part 4 of the NGR definition of capacity auction start date and rule 2.

²³⁵ See rule 654(1) of the NGR.

²³⁶ See sections 91A and 91BRM of the NGL and rule 656 of the NGR.

²³⁷ The participation of a facility in the auction may be suspended if AEMO believes it is not practicable or not feasible to conduct the auction with the facility (or part thereof).

²³⁸ See rule 656(2) of the NGR.

²³⁹ See rules 656(5), 660 and 667-675 of the NGR.

²⁴⁰ See rule 657(5)(d) of the NGR.

²⁴¹ See rule 659 of the NGR.

²⁴² See section 2(1) of the NGL and rule 647 of the NGR.

²⁴³ See rule 658(5) of the NGR.



Design Element	Detail
CT&A Procedures and the auction agreement	<p>The CT&A Procedures, which AEMO is responsible for developing, must provide for the operation and administration of the day-ahead auction in accordance with Part 25 of the NGR. Amongst other things, these procedures must set out:</p> <ul style="list-style-type: none"> the terms of participation in the auction; matters relating to the conduct of the auction, including, amongst other things, information on the method used to calculate the auction quantity limits, the specification of auction products, the bidding process, settlement calculations, how system failures will be dealt with and the information to be published by AEMO before and after the auction is held each day; and the information to be exchanged with auction facility operators and how the auction results will be given effect. <p>AEMO is also responsible for developing the standard form auction agreement, which will form part of the CT&A Procedures. The standard form agreement must, amongst other things, set out:²⁴⁴</p> <ul style="list-style-type: none"> provisions under which the auction participant agrees to comply with and be bound by the CT&A Procedures; a requirement to provide payment security to participate in the auction; procedures and timing requirements for payment and settlement of auction amounts; and the list of events or circumstances that will be considered default or suspension events; and the process for suspending, limiting access to the auction and terminating an auction agreement.
Auction services	<p>Participants will be able to use the auction to procure:²⁴⁵</p> <ul style="list-style-type: none"> forward haul transportation services (with separate products offered in both directions on bi-directional²⁴⁶ pipelines); backhaul services on those single direction pipelines (or parts of pipelines) on which AEMO specifies backhaul service points; and stand-alone compression services. <p>The terms and conditions on which a shipper can use these services will be set out in the auction facility operator's standard OTSA (or other agreement containing the terms for use of the service).²⁴⁷ Amongst other things, the OTSA will specify the hourly flexibility the shipper will have and provide for a reasonable endeavours renomination right and a zero-imbalance allowance.²⁴⁸ If a shipper requires additional flexibility, it can procure it from the service provider or another shipper (where operationally and technically feasible),²⁴⁹ but this will be a matter for negotiation.</p> <p>Note that in contrast to the capacity trading platform, the services that must be offered as auction services are limited to those specified in the NGR. A rule change will therefore be required if any new services are to be subject to the auction.</p>

²⁴⁴ See rule 657(5) of the NGR.

²⁴⁵ See rule 650(1) of the NGR.

²⁴⁶ A pipeline will be classified as bi-directional if at any time the direction of the physical flow of gas on the pipeline (or part) is capable of being reversed under normal operating conditions and transportation facility users have transportation capacity for firm forward haul services in both directions (with a service time that includes that time). See rule 648(2) of the NGR.

²⁴⁷ See definition of auction service in rule 647 of the NGR.

²⁴⁸ See the standard terms in the Code.

²⁴⁹ See Part 17 of the facility specific terms in the Code.

Design Element		Detail
Auction service priorities	Classification of services	<p>Auction facility operators must:</p> <ul style="list-style-type: none"> ▪ classify each of their services (excluding auction services) as being either a firm service or a lower tier service using the definitions in the NGR; and ▪ use the same classification for the purposes of determining auction quantity limits and complying with the auction service priority principles.²⁵⁰ <p>Where there is some doubt about whether a service should be classified as a firm or lower tier service, facility operators must adopt a classification that is reasonable, having regard to the definitions of firm and lower tier services in the NGR²⁵¹ and reasonable commercial practice in the industry. If requested by the AER, a facility operator must give the AER the information reasonably required to assess the classification of the service.²⁵²</p>
	Priority principles	<p>Auction services are subject to the following priority principles:²⁵³</p> <ul style="list-style-type: none"> ▪ For contracted capacity, auction services rank below firm transportation services and the renomination rights²⁵⁴ held by firm capacity holders, but above all lower tier services from a scheduling, curtailment and renomination perspective. ▪ If there is a more general shortfall in the facility's capacity, which affects both the contracted and uncontracted capacity on a day (including in the case of backhaul, by reason of a reduction in net firm forward haul flows), the auction service will be curtailed after lower tier services. <p>After the auction, transportation service providers can sell any unused auction capacity on an interruptible basis, but these services will rank below the auction product from a curtailment and renominations right perspective.</p> <p>Auction facility operators must ensure the terms and conditions of use of an auction service and the scheduling process give effect to these priority principles²⁵⁵ and are also required comply with the principles to the extent it is operationally and technically feasible to do so.²⁵⁶ Auction facility operators are also prohibited from scheduling lower tier services earlier than the auction service.²⁵⁷ Auction facility operators will have a transitional immunity from civil monetary liability that may otherwise arise as a result of complying with these requirements or from releasing contracted capacity into the auction.²⁵⁸</p>
	Effect of renominations on the auction service	<ul style="list-style-type: none"> ▪ If a firm capacity holder renominates during the gas day, the renomination will be met: first from any auction capacity that was not allocated in the auction; second by curtailing lower tier services that are using the contracted capacity; and third by curtailing the auction service²⁵⁹. ▪ If an auction capacity holder renominates during the gas day, the renomination must be met: first from any auction capacity that was not allocated in the auction; and second by curtailing lower tier services.²⁶⁰

²⁵⁰ See rule 648(4) of the NGR.

²⁵¹ See definitions in rule 647 of the NGR.

²⁵² See rule 648(5) of the NGR.

²⁵³ See rule 651 of the NGR.

²⁵⁴ The term 'renomination rights' is used in this context to refer to firm and reasonable endeavours renomination rights.

²⁵⁵ See rule 650(2) of the NGR.

²⁵⁶ See rule 651(2) of the NGR.

²⁵⁷ See rule 650(3) of the NGR.

²⁵⁸ See the transitional provisions in clauses 91 and 92 of Part 15 of Schedule 3 of the NGL.

²⁵⁹ See rules 651(1)(c)-(d) of the NGR.

²⁶⁰ *ibid.*

Design Element	Detail
Transitional firm rights	<p>Transitional firm services: Transitional arrangements have been implemented to enable transportation services that meet the following criteria ('transitional firm service criteria') to be treated as 'transitional firm' services for the purposes of the auction priority principles and therefore rank ahead of the auction product both in relation to nominations and renominations for up to two years following the commencement of the auction:²⁶¹</p> <ul style="list-style-type: none"> the transportation service is currently treated as firm²⁶² once scheduled (e.g. some as available and authorised overrun services); the transportation service is used for the supply of gas for consumption by a gas-fired generator that is a market generating unit;²⁶³ at least one of the service points is either a point at which gas is supplied for consumption by a market generating unit, or is on another transportation facility that is used to receive gas for onward transportation to a market generating unit; and the terms and conditions for use of the transportation service are set out in a primary facility agreement made on or before 19 March 2018 and are the same, or substantially the same, as the terms and conditions in force on that date. <p>Classification of transitional firm services: ²⁶⁴ Auction facility operators are responsible for classifying services as transitional firm services in accordance with criteria specified in the NGR and must notify the AER if they intend to do so no later than 30 business days before the classification takes effect.²⁶⁵ The notice must include a copy of the relevant gas transportation agreement(s), an assessment of the service against each of the classification criteria (with reference to the terms of the agreement or other information relied on for the assessment) and any other information or documentation reasonably required by the AER. The AER can ask for more information to explain the classification, including an expert opinion by a person that has the qualifications and experience to make an assessment of whether the transportation service meets the criteria set out in the NGR.²⁶⁶ If the AER is not satisfied a service meets the criteria, it may reject the classification. It may also revoke the classification at a later point if it is not satisfied the criteria in the NGR are met.</p> <p>If a service is classified as a transitional firm service and the gas transportation agreement is amended, the auction facility operator must notify the AER within 5 business days of the amendment. If the classification is no longer accurate, the auction facility operator must provide the AER with an updated classification notice.</p> <p>AER's role: The AER is responsible for monitoring compliance with the conditions of use of the transitional firm services (e.g. to ensure the services are being used at a gas-fired generation site). The AER may also require an auction facility operator or shipper provided with a transitional firm service to appoint an independent and suitably qualified auditor to conduct an independent audit of the quantities classified as transitional firm quantities and prepare and provide a report to the AER.²⁶⁷</p>

²⁶¹ See Schedule 5, Part 4, rules 3 and 4 of the NGR.

²⁶² See Key terms used in the legal and regulatory framework for the definition of firm.

²⁶³ The term 'market generating unit' is defined as a market generating unit under the National Electricity Rules or a facility for generating electricity that participates in the wholesale electricity market in the NT.

²⁶⁴ See Schedule 5, Part 4, rules 4 - 7 of the NGR.

²⁶⁵ In keeping with Schedule 5 Part 4, rule 9 the costs incurred by a facility operator through this process must **not** be included in the calculation of standardisation costs (see Chapter 5).

²⁶⁶ The information provided to the AER through the classification process will be taken to have been provided to the AER in confidence. See Schedule 5, Part 4, rule 9 of the NGR.

²⁶⁷ See Schedule 5, Part 4, rule 8 of the NGR



Design Element		Detail
Auction format	Auction design principles	<p>The day-ahead auction must take the form of a partial combinatorial auction (which will allow capacity to be procured across multiple pipelines and compressors, irrespective of location or asset ownership) with static backhaul (i.e. auction backhaul services are allocated in a static manner against net forward haul firm flows and do not take into account forward haul flows generated through the auction). The auction must also comply with the following design principles in the NGR:²⁶⁸</p> <ul style="list-style-type: none"> the auction must be conducted on a daily basis through a single round sealed bid process with a zero reserve price (with compressor fuel provided in-kind or procured from the facility operator); the auction must utilise a pay-as-cleared pricing rule, which will be determined by the lowest accepted bids in the auction; and auction winners must be determined using the revenue-maximising combination of bids, with auction proceeds to be allocated to auction facility operators on the basis of the revenues achieved by the products provided by each auction facility operator.
	Contract path	<p>Forward haul and compression auction services are to be sold using a hybrid point-to-point and zonal model. The hybrid model allows auction participants to bid on a point-to-point basis for any unused capacity at individual receipt or delivery points, but their ability to secure capacity at those points will depend on whether there is sufficient CBU capacity available in the receipt point zone and delivery point zone they wish to use and CBU capacity along the pipeline segments (or the compression facility) they need to use.²⁶⁹</p> <p>Backhaul services are to be sold on a point-to-point basis between points that AEMO determines should be included in the auction from time to time. In contrast to forward haul and compression services, the availability of backhaul services will not be constrained by CBU capacity. The availability of backhaul services will depend on whether there are sufficient firm net forward haul flows between the points used for the backhaul service.²⁷⁰</p>
	Auction quantity limits	<p>AEMO is responsible for determining the methodology to be used to calculate the auction quantity limits, which must comply with the principles set out in the NGR and be prescribed in the CT&A Procedures.²⁷¹ The CT&A Procedures may also provide for:²⁷²</p> <ul style="list-style-type: none"> arrangements for AEMO and an auction facility operator to agree or have determined the allocation of reserved capacity to an auction facility, service point or pipeline segment for the purposes of determining auction quantity limits; and circumstances in which an auction facility operator may include additional quantities of capacity as contracted capacity for the purposes of calculating the auction quantity limits, but not for the purposes of the priority principles. <p>Auction facility operators are responsible for determining their facility's auction quantity limits, operational capacity and capacity shortfalls in accordance with the NGR and CT&A Procedures.²⁷³ Operational capacity must be determined in accordance with accepted good industry practice.²⁷⁴</p>

²⁶⁸ See rule 652 of the NGR.

²⁶⁹ See rule 653(4)-(6) of the NGR.

²⁷⁰ See rules 652(3)(c) 653(9) of the NGR.

²⁷¹ See rule 653(3) of the NGR.

²⁷² See rule 653(10) of the NGR.

²⁷³ See rules 651(3) and 653(1) of the NGR.

²⁷⁴ See rule 653(8) of the NGR.



Design Element	Detail
Curtailment	<p>As the auction product will not be a firm product, the following additional measures will be available to mitigate the risk of curtailment, which could occur as a result of renominations by firm capacity holders, or more general technical or operational constraints:</p> <ul style="list-style-type: none"> ▪ All auction participants will be able to choose whether they are only curtailed on that product or curtailed across all products included in the winning bid (to operationalise this option, shippers will renominate down on the other products). ▪ If curtailment is required, it will occur on a pro-rata basis across auction capacity users and auction participants will not be required to pay for the curtailed capacity or the capacity that has been renominated down on other products. <p>Auction participants will also be able to try and avoid curtailment by procuring uncontracted capacity from the transportation service provider of the asset that is experiencing the curtailment if such capacity is available, but this will be a matter for negotiation.</p>
Auction facility operator obligations in relation to the auction	<p>Auction facility operators are required by the NGR to:</p> <ul style="list-style-type: none"> ▪ Determine and update the auction quantity limits for each gas day in accordance with the CT&A Procedures and provide the auction quantity limits and any update to AEMO at the time required by the procedures.²⁷⁵ ▪ Provide AEMO with information about whether any service has been classified as a transitional firm service and keep that information up to date.²⁷⁶ ▪ Provide AEMO with information each gas day on the transitional firm quantity used in the calculation of the auction quantity limits for the gas day (aggregated by service point) and the service points to which it relates.²⁷⁷ ▪ Provide AEMO with information on when an intra-day curtailment of auctioned capacity occurs, why the curtailment has occurred (e.g. due to a renomination or a general curtailment event) and whether it is a material curtailment (i.e. more than 10% of the auctioned capacity has been curtailed) - if the reason for the curtailment or extent of the curtailment changes through the day, this information will need to be updated.²⁷⁸ ▪ Provide AEMO with information about nominations, scheduling and curtailment for each gas day to enable AEMO to determine the amounts payable by or to auction participants, AEMO or facility operators (settlement information) and provide revised settlement information in accordance with the CT&A Procedures or if the settlement information contains an error or discrepancy.²⁷⁹ ▪ Provide AEMO with any other information specified in the CT&A Procedures.²⁸⁰ <p>This information must be provided in accordance with the NGL, the NGR, the CT&A Procedures and Part 24 Information Standard.^{281, 282}</p> <p>Auction facility operators are also required by the NGR to give effect to the results of the auction, unless the auction participant's nominated service agreement has been terminated, or in the circumstances provided for in the CT&A Procedures.²⁸³</p>

²⁷⁵ See rule 653(1) of the NGR.

²⁷⁶ See Schedule 5, Part 4, rule 10 of the NGR.

²⁷⁷ See Schedule 5, Part 4, rule 10 of the NGR.

²⁷⁸ See rule 190A of the NGR.

²⁷⁹ See rule 654(2)(a) of the NGR.

²⁸⁰ See rule 654(2)(b) of the NGR.

²⁸¹ See, for example, rules 653 and 654(2)-(3) of the NGR. See also sections 91FEE – 91FEG of the NGL.

²⁸² The Part 24 information standard means the practices, methods and acts that would reasonably be expected from an experienced and competent person engaged in the ownership, operation or control of a transportation facility of the applicable type acting with all due diligence, prudence and foresight and in compliance with all applicable legislation (including these rules), authorisations and industry codes of practice.

²⁸³ See rule 655 of the NGR.



Design Element	Detail
Information to be published by AEMO	<p>AEMO must publish a range of information pre- and post-auction on the Bulletin Board, which will be set out in the CT&A Procedures.²⁸⁴ This is expected to include information on:</p> <ul style="list-style-type: none"> the products that will be available in the auction and the auction quantities prior to the auction being conducted (the NGR allow AEMO to implement measures to ensure the publication of information does not directly or indirectly disclose a nomination made by a market generating unit); the results of the auction (e.g. clearing prices, price sensitivities, quantities of auction capacity allocated and, where relevant, the amount of auctioned capacity that has been curtailed), which, until sufficient liquidity develops in this market, will not include the bid stack; whether a facility has classified any transitional firm services and the amount of transitional firm services taken into account in the calculation of the auction quantity limits, which will be published after the gas day; and any auction service curtailments that occur during the gas day, which auction facility operators will need to report to AEMO along with information on the service affected, the cause of the curtailment and whether the curtailment is material.
Market conduct	<ul style="list-style-type: none"> Auction participants are required to comply with similar general conduct requirements (e.g. not to act fraudulently, dishonestly or in bad faith)²⁸⁵ and market conduct rules (e.g. an auction participant must not manipulate or attempt to manipulate the auction) to those that apply in the GSH.²⁸⁶ Shippers using an auction facility are prohibited from making a nomination or renomination that is false, misleading or likely to mislead.²⁸⁷ Transportation service providers are prohibited from bidding (directly or indirectly) in the auction for capacity on their own facility, or engaging in conduct with the intent of distorting or manipulating prices.²⁸⁸
Monitoring of market conduct	<p>The AER will be responsible for monitoring day-ahead nominations, renominations and activity in the auction to ensure that transportation service providers, auction participants and shippers comply with these rules.²⁸⁹ To enable the AER to effectively monitor compliance with these provisions:²⁹⁰</p> <ul style="list-style-type: none"> auction facility operators will be required to make records of day-ahead nominations, renominations (including the time the renomination was made) and scheduled quantities for each service and maintain the records for a period of 5 years after the gas day; and shippers using an auction facility that make a material renomination on a gas day (i.e. a renomination that results in their original nomination varying by more than 10%) in relation to a firm transportation service (including transitional firm services) or an auction service will be required to: <ul style="list-style-type: none"> make a contemporaneous record of the material conditions and circumstances giving rise to the renomination, the reasons for making the renomination (which must be verifiable and specific), the time at which the event giving rise to the renomination occurred and the time at which the shipper first became aware of the event; and maintain the records for a period of 5 years after the gas day. <p>These records must be made and maintained in accordance with the record keeping guidelines that the AER will be responsible for developing.²⁹¹</p>

²⁸⁴ See rule 657 of the NGR.

²⁸⁵ See rule 661(1) of the NGR.

²⁸⁶ See rule 662 of the NGR.

²⁸⁷ See rule 663 of the NGR.

²⁸⁸ See rules 661(2)-(3) of the NGR.

²⁸⁹ See rule 664 of the NGR.

²⁹⁰ See rules 665-666 of the NGR.

²⁹¹ See rules 665(2) and 666(4) of the NGR.



7.2 Legal and regulatory framework

To implement the day-ahead auction, a number of amendments have been made to the NGL, the NGR and the Regulations. Further detail on the amendments that have been made is provided below.

7.2.1 Changes to the NGL

The NGL has been amended to:

- Extend the subject matter of the NGR²⁹² and the scope of the AEMC's rule making functions²⁹³ to include the day-ahead auction.
- Specify the new functions and powers of AEMO in relation to the day-ahead auction, which include:²⁹⁴
 - establishing, operating and administering the auction and, subject to provisions in the NGR and the CT&A Procedures, suspending an auction;
 - making and administering auction agreements; and
 - making, amending or revoking the CT&A Procedures, which will govern the operation and administration of the auction.
- Impose an obligation on transportation service providers, shippers and auction participants to provide AEMO with the information it requires to operate and administer the auction and prohibit the provision of information these parties know is false or misleading.²⁹⁵ If a person provides such information to AEMO then they will not incur any civil monetary liability for an act or omission in preparing or giving that information, unless the act or omission is done or made in bad faith or through negligence.²⁹⁶
- Prohibit shippers from providing transportation service providers with information that is required for the operation and administration of the auction that they know is false or misleading.²⁹⁷
- Provide transportation service providers with a transitional immunity from civil monetary liabilities that may otherwise be payable to a shipper because:
 - the transportation service provider supplies transportation services to another person by means of capacity sold through the auction in breach of an exclusivity right,²⁹⁸ where the sale is required by the NGR;²⁹⁹ and

²⁹² See Schedule 1 (items 68A and 68N-68X).

²⁹³ See section 74 of the NGL.

²⁹⁴ See Chapter 2, Part 6 (Role of AEMO under the NGL) of the NGL and, in particular, section 91A, Division 2C, Division 2D, Division 6 (Subdivision 3 and Subdivision 4), Division 7 (section 91GG) and Division 8 (section 91H).

²⁹⁵ See Chapter 2, Part 6, Division 6, Subdivision 3 of the NGL. If a person provides AEMO with information that the person knows is false or misleading, the maximum penalty is \$2,000 in the case of a natural person and \$10,000 in the case of a body corporate.

²⁹⁶ See section 91FEH of the NGL.

²⁹⁷ See section 91FEI of the NGL.

²⁹⁸ An exclusivity right means an express contractual right that arose under a contract entered into before the NGL amendments were made that prevents or otherwise limits or controls the supply by a service provider of transportation services to persons who are not parties to the relevant contract.

²⁹⁹ See clause 91 of Part 15 of Schedule 3 to NGL.



- the transportation service provider gives effect to the auction priority principles (including the requirement that the scheduling process does not result in lower tier services being scheduled earlier than the auction service) set out in the NGR or Code.³⁰⁰

These transitional immunities only apply to contracts entered into before the commencement of the amendments to the NGL.

7.2.2 Changes to the NGR

In keeping with the amendments that have been made to the NGL and the final design of the day-ahead auction, the NGR has been amended to include a new **Part 25 (Capacity Auction)**. Amongst other things, Part 25 of the NGR:

- Sets out the objective of the auction, which is to “improve the efficiency with which transportation capacity is allocated and foster the development of a more liquid secondary market for transportation capacity”.³⁰¹
- Provides for the establishment, operation and administration of the auction by AEMO³⁰² and the scope of the fees recoverable by AEMO.³⁰³
- Sets out the scope of the CT&A Procedures as it relates to the day-ahead auction and the standard form auction agreement that AEMO is required to develop.³⁰⁴
- Specifies the auction services (i.e. the forward haul auction service, backhaul auction service and compression auction service).
- Sets out the scheduling and priority principles that auction facility operators will be required to give effect to (if it is operationally and technically feasible to do so in accordance with good industry practice).³⁰⁵
- Specifies the auction design principles AEMO must give effect to when establishing and operating the auction and the auction quantity limits that must be determined for each gas day by auction facility operators in accordance with the methodology set out in the CT&A Procedures.³⁰⁶
- Sets out the obligations of auction facility operators to provide information to AEMO and to give effect to the auction results.³⁰⁷
- Specifies the standard that will apply to any information that a shipper or transportation service provider is required to provide to AEMO or the AER, which is referred to as the ‘Part 24 information standard’.³⁰⁸
- Sets out the market conduct rules that will apply to auction participants, transportation service providers and users of auction facilities (including the prohibition on shippers

³⁰⁰ See clause 92 of Part 15 of Schedule 3 to the NGL.

³⁰¹ See rule 645 of the NGR.

³⁰² See rules 656 of the NGR.

³⁰³ See rule 659 of the NGR.

³⁰⁴ See rule 657 of the NGR.

³⁰⁵ See rules 650-651 of the NGR.

³⁰⁶ See rules 652-653 of the NGR.

³⁰⁷ See rules 654-655 of the NGR.

³⁰⁸ See rule 649 of the NGR.

making nominations or renominations that are false or misleading (or likely to mislead)) and the AER's role in monitoring compliance with these rules.³⁰⁹

- Requires auction facility operators and users of auction facilities to make and maintain records on nominations and/or renominations in accordance with the NGR and the Nominations and Scheduling Records Guidelines and the Renomination Records Guidelines issued by the AER.³¹⁰
- Provides for auction participants to pay AEMO for use of the auction services and the payment of auction revenues to auction facility operators.³¹¹

To deal with some of the transitional issues associated with the day-ahead auction, a number of transitional rules have been included in Schedule 5 of the NGR (Parts 4 and 5). These transitional rules:

- Specify the commencement dates for some obligations in Part 25 of the NGR³¹² and the day-ahead auction.^{313,314}
- Provide for transportation services that meet the transitional firm service criteria (see Table 7.1) to be treated as transitional firm services for up to two years and set out the process for classifying services as transitional firm services and the AER's role in monitoring compliance with the conditions of use of these services.³¹⁵
- Set out the commencement date for the obligation that shippers and auction facility operators will have to keep records of nominations and/or renominations³¹⁶ and the date by which the AER will be required to develop and publish initial guidelines.³¹⁷
- Specify the reporting obligations that the operators of Part 24 compression facilities will be required to comply with from 1 February 2019 (see Chapter 8 for more detail).³¹⁸

In relation to the latter of these transitional rules, the reporting obligation for Part 24 compression facilities has been included in the Part 25 transitional rules rather than Part 18 because a separate amendment to the NGL is currently being progressed that will expand the scope of the Bulletin Board reporting framework to include compressors. Once this amendment to the NGL is made and Part 18 of the NGR is amended to include stand-alone compression facilities, this transitional rule will lapse.

³⁰⁹ See rules 661-662 and 664 of the NGR.

³¹⁰ See rules 665-666 of the NGR. These rules provide for the guidelines to be published as one instrument.

³¹¹ See rules 660 and 667-675 of the NGR.

³¹² The commencement date for Part 25 will be specified by the South Australian Minister under section 294G of the NGL.

³¹³ The commencement date for the auction is defined as 1 March 2019, or if the Part 25 commencement date is after 1 December 2018, the date falling 60 business days after the Part 25 commencement date.

³¹⁴ See transitional rules Schedule 5, Part 4, rules 1 and 2 of the NGR.

³¹⁵ See transitional rules Schedule 5, Part 4, rules 3 to 10 of the NGR.

³¹⁶ See transitional rule Schedule 5, Part 4, rule 11 of the NGR. Note that the obligation to make and maintain records will commence on the day the auction starts (i.e. 1 March 2019 or if the Part 25 commencement date is after 1 December 2018, the date falling 60 business days after this date).

³¹⁷ See transitional rule Schedule 5, Part 4, rule 12 of the NGR. This rule requires the AER to develop and publish the initial guidelines by 1 December 2018 (or if the Part 25 commencement date is after 1 December 2018, the date falling 20 business days after this date).

³¹⁸ See transitional rules in Schedule 5, Part 5 of the NGR.



The provisions in Part 25 and the transitional rules outlined above should be read in conjunction with **Part 24 (Facilitating capacity trades and the capacity auction)** of the NGR, which, amongst other things sets out:

- the circumstances in which an exemption from the auction can be obtained (see Chapter 4 for more detail);³¹⁹
- the auction related matters that must be dealt with in the Code³²⁰ and the obligation that transportation service providers have to ensure their facility specific terms give effect to the auction service priority principles (including scheduling requirements);³²¹ and
- a number of matters to be dealt with in the CT&A Procedures, including:³²²
 - the provision of information to AEMO about the facility agreements to be used to give effect to capacity procured through the auction;
 - the process for determining the zones, pipeline segments and service points that will be used in the auction; and
 - the arrangements that will apply to capacity procured through the auction at a DWGM and STTM interface point.

Part 25 of the NGR should also be read in conjunction with the proposed amendments to **Part 18 (Natural Gas Services Bulletin Board)** of the NGR and the transitional rules associated with this part of the NGR, which require:

- transportation service providers to provide AEMO with information on the nameplate rating and short-term and medium-term capacity outlook for each receipt and delivery point for publication on the Bulletin Board;^{323,324}
- remote transportation facilities that would otherwise be excluded from the Bulletin Board reporting obligations but do not qualify for an exemption under Part 24 of the NGR, to be subject to the reporting obligations;^{325,326}
- auction facility operators to provide AEMO with the following information for publication on the Bulletin Board if there is a curtailment (including a curtailment due to a renomination):
 - notice of the curtailment and the auction service affected;
 - a brief description of the cause of the curtailment; and

³¹⁹ See Part 24 Subdivision 3.1 of the NGR and the definition of 'auction facility' in Part 25 of the NGR.

³²⁰ See Part 24 Subdivision 2.1 of the NGR.

³²¹ See rule 632(2)(c) of the NGR.

³²² See Part 24 Division 4 of the NGR.

³²³ See the changes to the definition of 'daily capacity' in rule 141(1) and 'nameplate rating' in rule 141(2) of the NGR. See also rule 168(2A) of the NGR.

³²⁴ This information, coupled with historic daily flow data at a receipt and delivery point level, will enable auction participants and capacity trading platform users to assess the risks associated with trying to use the capacity procured through either mechanism at a particular point, given they will have lower priority at those points.

³²⁵ See the change to the definition of 'remote pipeline' in rule 141 of the NGR.

³²⁶ The extension of the reporting obligation to these facilities will enable auction participants and capacity trading platform users that utilise these pipelines to assess the risks associated with trying to use the capacity procured through either the auction or capacity trading platform.



- whether the curtailed quantity of the auction service is material;³²⁷ and
- o AEMO to publish the auction information specified in the CT&A Procedures (e.g. auction results and auction quantity limits) on the Bulletin Board.³²⁸

7.2.3 Changes to the Regulations

The Regulations have been amended to specify:

- the maximum civil monetary liabilities that will apply to parties providing capacity auction information to AEMO for acts or omissions in preparing or giving that information that are done or made in bad faith or through negligence, which is set out in regulation 10;³²⁹ and
- the day-ahead auction provisions in the NGL and NGR that are classified as civil penalty or conduct provisions (see Table 7.2 for a list of these provisions), which are set out in schedules 3 and 4 of the Regulations.

Table 7.2: Civil penalty and conduct provisions

Provision	Summary of provision	Type of penalty
NGL		
Section 91FEE	A transportation service provider, auction participant and shipper that has possession or control of information that relates to and is necessary for the operation and administration of the auction by AEMO, or the performance of any other capacity auction function of AEMO must provide that information to AEMO if required to do so by the NGR or Procedures	Civil penalty
Part 25 of the NGR		
Rule 649(1)	A transportation service provider or shipper required by Part 25 to make a record or give information or data to AEMO or the AER, including resulting from calculations, must prepare and submit that information or data and perform those calculations in accordance with the Part 24 information standard	Civil penalty and conduct provision
Rule 649(2)	A person required to update information or data provided to AEMO or the AER, must do so as soon as practicable and within time period in CT&A Procedures, if circumstances arise requiring information or data to be updated	Civil penalty
Rule 650(2)	Auction facility operators must ensure the terms and conditions of use of an auction service and the scheduling process give effect to the auction service priority principles	Civil penalty and conduct provision
Rule 650(3)	An auction facility operator's scheduling process must not result in lower tier services being scheduled ahead of an auction service	Civil penalty and conduct provision
Rule 655(3)	Auction facility operators must give effect to auction results notified by AEMO	Civil penalty and conduct provision
Rule 660(2)	Auction participants must pay AEMO all amounts payable in the time and manner set out in the auction agreement	Civil penalty
Rule 661(1)	Auction participants must comply with general requirements in market conduct and nomination rules	Civil penalty and conduct provision

³²⁷ See rule 190A of the NGR. Note that this obligation does not commence until the auction commences (see Schedule 5, Part 2, rule 2(1) of the NGR).

³²⁸ See rule 195B of the NGR. Note that this obligation does not commence until the auction commences (see Schedule 5, Part 2, rule 2(2) of the NGR).

³²⁹ The maximum civil monetary liability is \$400,000 for each person that suffers loss (capped at \$20 million for a prescribed 12 month period).



Provision	Summary of provision	Type of penalty
Rule 661(2)	Transportation service providers must not engage in any conduct with the intent of distorting or manipulating auction prices	Civil penalty and conduct provision
Rule 661(3)	Transportation service providers must not, in relation to an auction facility owned, operated or controlled by the transportation service provider, submit bids for capacity in the auction or arrange for another person to do so at a price determined by the transportation service provider	Civil penalty and conduct provision
Rule 662(1)	Auction participants must not submit bids if they know they cannot perform their obligations under resulting transaction or with the intention of defaulting in its performance	Civil penalty and conduct provision
Rule 662(2)	Auction participants must not intentionally or recklessly default in the performance of their obligations under any transaction arising through the capacity auction	Civil penalty and conduct provision
Rule 662(3)	Auction participants must not manipulate or attempt to manipulate the auction	Civil penalty and conduct provision
Rule 663(1), (2) and (3)	Auction facility users must not make nominations or re-nominations that are false, misleading or likely to mislead	Civil penalty
Rule 665(1)	Auction facility operators must keep and maintain nominations and scheduling records	Civil penalty
Rule 665(6)	Auction facility operators must provide nomination and scheduling records to the AER on request	Civil penalty
Rule 666(1) and (2)	Transportation facility users that make a material renomination must keep a record of specified information	Civil penalty
Rule 666(4)	Transportation facility users must provide any additional information requested by the AER to substantiate and verify the reasons for the renomination	Civil penalty
Rule 672(4)	Auction facility operator must pay amounts payable to AEMO under a final statement or revised statement by no later than 12 noon on the payment date	Civil penalty and conduct provision
Rule 674(1)	Persons required to pay AEMO an amount must pay interest on any unpaid monies at the default interest rate	Civil penalty and conduct provision
Transitional rules – Schedule 5 of NGR		
Part 4, rule 4(5)	Auction facility operators must maintain a record of matters relied upon when classifying a quantity as a transitional firm quantity for a gas day and provide the record to the AER on request	Civil penalty
Part 4, rule 5(2)	If requested by the AER, an auction facility operator must provide information concerning the proposed classification of a transitional firm service as soon as practicable and within the time specified in the request, which must not be shorter than 10 business days after the request	Civil penalty
Part 4, rule 5(4)	If the AER is not satisfied a service satisfies the transitional firm classification criteria and issues a notice to the auction facility operator, the auction facility operator must not classify the service as a transitional firm service	Civil penalty
Part 4, rule 6(1) and (2)	An auction facility operator who has classified a service as a transitional firm service must notify the AER of any variation to relevant facility agreement within 5 business days of variation	Civil penalty

8. Reporting framework for secondary capacity trades and other transparency measures

The capacity trading reform package provides for a range of transparency related measures, including:

- a reporting framework for secondary capacity trades that captures bilateral trades and trades conducted through the capacity trading platform;
- a requirement for AEMO to publish the auction results and other auction related information on the Bulletin Board (see Chapter 7);
- a requirement for allocation agents on Part 24 facilities and system injection and system withdrawal points in the DTS (excluding points at which the allocations are determined under Retail Market Procedures) to provide AEMO with information on allocation arrangements³³⁰ for publication on the Bulletin Board; and
- a number of other amendments to the Bulletin Board reporting obligations that are required to enable users of the capacity trading platform and auction to understand the risks associated with products procured through these mechanisms, which include:
 - extending the Bulletin Board reporting obligations to transportation service providers operating remote transportation facilities that do not qualify for an exemption under Part 24 of the NGR;
 - a requirement for transportation service providers to provide a greater level of information on the capacity and use of receipt and delivery points; and
 - a requirement for Part 24 compression facility operators to report a range of operational information.

This element of the reform package is expected to aid the price discovery process, reduce search and transaction costs, reduce barriers to trade and allow shippers to make more informed decisions about their use of capacity and service points.

Further detail on these transparency measures is provided below, along with an overview of the changes that have been made to the NGL, NGR and Regulations to give effect to this element of the reform package.

8.1 Overview of transparency measures

Table 8.1 provides a summary of the key features of the transparency measures outlined above. This table should be read in conjunction with GMRG's final recommendations on the design of the capacity trading reform package, which provides further detail on the rationale for including these measures in the reform package.³³¹

As noted in Chapter 1, the only substantive change that has been made to the final recommendations is that the reporting requirements for allocation arrangements has been expanded to require more information to be provided on the requirements to join and leave these arrangements.

³³⁰ These arrangements specify the rules used to allocate gas that is metered as having been supplied (or deemed to have been delivered) to a multi-user receipt or delivery point between shippers using these points.

³³¹ See GMRG, Final Recommendations on the Capacity Trading Reform Package (Standardisation, capacity trading platform and reporting framework for secondary trades), November 2017 and GMRG, Final Recommendations on the Design of the Day-Ahead Auction of Contracted but Un-Nominated Capacity, December 2017.

Table 8.1: Final design of the reporting framework for secondary capacity trades and other transparency measures

Design Element	Detail
Reporting framework for secondary capacity trades	
Trades to be reported	<p>Information on the following secondary capacity transactions must be reported AEMO on the Bulletin Board:³³²</p> <ul style="list-style-type: none"> ▪ all screen and pre-matched trades carried out through the capacity trading platform; and ▪ bilateral trades of capacity (bare transfers and operational transfers) involving forward haul, backhaul, park, loan or compression services (excluding services on distribution pipelines). <p>The following transactions do not need to be reported:³³³</p> <ul style="list-style-type: none"> ▪ the use of capacity to satisfy an obligation under an agreement for the supply of gas (i.e. delivered gas supply agreements); ▪ an agreement to swap a quantity of gas at a location for a quantity of gas at another location; ▪ a novation of an agreement with a transportation service provider; and ▪ transactions between closely related entities. <p>There are no facility based exemptions from secondary capacity reporting. Parties entering into trades on facilities with a Part 24 exemption are therefore still required to report the trades unless the trade falls into a category listed above.</p>
Information to be reported	<p>The following information on secondary capacity trades must be reported:³³⁴</p> <ul style="list-style-type: none"> ▪ the identity of the trading parties and who the seller is, AEMO is prevented from publishing the names of the trading parties and is required publish the trades on a zonal basis (or a facility basis if the transportation facility is not subject to the capacity trading reforms); ▪ the trade date and service term; ▪ the transportation facility that the trade relates to; ▪ the type of service purchased and the priority of the service (e.g. firm, as available, interruptible); ▪ the type of trade and for bilateral trades, whether the trade is on the same or substantially the same terms as those in the facility's standard OTSA; ▪ where relevant, the direction of the service and the points between which gas is transported; ▪ the amount of capacity procured (maximum daily quantity (MDQ)) and for bilateral trades the maximum hourly quantity (MHQ); and ▪ the price paid (including, where relevant, the price structure and price escalation mechanism). <p>If it is not practicable to report some of this information (i.e. due to the nature or terms of the transaction), then a reasonable estimate or approximation must be reported.³³⁵</p> <p>This information must be reported in accordance with the Bulletin Board Information Standard in Part 18 of the NGR.</p>

³³² See rules 190C(1) and 190E(1) of the NGR.

³³³ See rule 141 of the NGR.

³³⁴ See rule 141(2A) of the NGR.

³³⁵ See rule 190C (2) of the NGR.



Design Element	Detail
When and where information is to be reported	<p>Trades carried out:³³⁶</p> <ul style="list-style-type: none"> through the capacity trading platform (GSH) must be reported on the GSH as soon as practicable after the trade occurs and published by AEMO on the Bulletin Board by the end of the gas day; and bilaterally must be reported by sellers (or a capacity transaction reporting agent if appointed by the seller)³³⁷ on the Bulletin Board: <ul style="list-style-type: none"> by the earlier of one business day after the trade is executed, and the day prior to the trade commencing (D-1) for trades where the service term starts after the trade date; or as soon as reasonably practicable on the trade date for trades where the service term starts on the trade date.³³⁸ <p>Capacity sellers must also update the information provided to AEMO if the information is no longer accurate.³³⁹</p>
Allocation arrangements	
Information to be reported	<p>Allocation agents must provide AEMO with the following information for publication on the Bulletin Board:³⁴⁰</p> <ul style="list-style-type: none"> a description of the allocation methodology used at the allocation point; a description of the process for joining and leaving the agreement and any charges payable to become a party to the agreement; and the allocation agent's contact details. <p>This obligation is limited to allocation agents that operate at:³⁴¹</p> <ul style="list-style-type: none"> points through which gas is injected into or withdrawn from a Part 24 facility; and system injection and system withdrawal points in the DTS for which an allocation agent is appointed under Part 19 of the NGR, excluding, in each case, a point at which the allocation of deliveries and receipts of gas is determined under the Retail Market Procedures. <p>This information must be reported in accordance with the Bulletin Board Information Standard in Part 18 of the NGR.³⁴²</p>

³³⁶ See rules 190C(3) and 190E(2) of the NGR.

³³⁷ See rules 190C and 190D of the NGR.

³³⁸ Note that trades must be reported within these time frames (as required under rule 190C of the NGR) from 1 March 2019 (see transitional rule Schedule 5, Part 2, rule 3 of the NGR). The commencement of reporting is not linked to the registration of a transportation facility under Part 18 or Part 24 of the NGR.

³³⁹ See rule 190C(5) of the NGR.

³⁴⁰ See rule 170A of the NGR.

³⁴¹ See rule 141 of the NGR.

³⁴² See rule 165(2) of the NGR.



Design Element	Detail
Extension of Bulletin Board reporting obligations	
Obligations	<ul style="list-style-type: none"> ▪ Transportation service providers that are subject to Bulletin Board reporting obligations must provide AEMO with information on the nameplate rating for each receipt and delivery point.³⁴³ ▪ Transportation service providers for remote transportation facilities that are ineligible for an exemption, will be subject to the Bulletin Board reporting obligations.³⁴⁴
Information about compression service facilities	<p>From 1 February 2019 Part 24 compression service facility operators that are subject to the auction must report the following information to AEMO for publication on the Bulletin Board:³⁴⁵</p> <ul style="list-style-type: none"> ▪ the nameplate rating; ▪ detailed facility information; ▪ a 12-month outlook of uncontracted primary compression capacity; ▪ a short-term capacity outlook; ▪ a linepack/capacity adequacy indicator; ▪ nominated and forecast use of the facility; and ▪ daily production data. <p>This information must be reported in accordance with the Bulletin Board Information Standard in Part 18 of the NGR.³⁴⁶</p>

³⁴³ See rule 168(2A) of the NGR.

³⁴⁴ See changes to the definition of remote pipelines in rule 141 of the NGR.

³⁴⁵ See Schedule 5, Part 5 of the NGR.

³⁴⁶ See Schedule 5, Part 5, rule 3 of the NGR.

8.2 Legal and regulatory framework

To implement the transparency measures outlined above, a number of changes have been made to the NGL, the Regulations and the NGR. Further detail on the changes that have been made is provided below.

8.2.1 Changes to the NGL

To implement the secondary capacity trading framework, the NGL has been amended to:

- Extend the subject matter of the NGR and the scope of the AEMC's rule making functions to include the reporting of secondary capacity trades.³⁴⁷
- Expand the scope of AEMO's functions and powers as operator of the Bulletin Board to include the collection and collation of information on secondary capacity trades.³⁴⁸
- Require transportation facility users, transportation service providers and any other person specified in the Regulations who has possession or control of information on secondary capacity transactions to provide it to AEMO if they are required to do so in accordance with the NGR.³⁴⁹
- Require AEMO to make available for the operation of the Bulletin Board information about secondary capacity transactions that it acquires in its capacity as operator or administrator of the GSH.³⁵⁰
- Extend to secondary capacity transactions the principle that a person cannot rely on a duty of confidence to avoid compliance with the obligation to provide information to AEMO for the Bulletin Board.³⁵¹

The NGL has also been amended to impose an obligation on allocation agents to provide information to AEMO for publication on the Bulletin Board.^{352,353}

8.2.2 Changes to the NGR

Secondary capacity transaction reporting

In keeping with the final design of the secondary capacity reporting framework, Part 18 (Natural Gas Services Bulletin Board) and Schedule 5 (Transitional rules) of the NGR have been amended to include provisions that:

- Set out the registration framework for secondary capacity transaction reporting, which provides for:

³⁴⁷ See section 74(1)(a)(iii) and Schedule 1 (item 56) of the NGL.

³⁴⁸ See sections 218 and 219 of the NGL.

³⁴⁹ See section 223A(1) and (2) of the NGL.

³⁵⁰ See section 223A(4) of the NGL.

³⁵¹ See section 224 of the NGL.

³⁵² See section 223(1)(b) of the NGL.

³⁵³ During the transitional phase for compression facility reporting, the obligation for compression service facility operators to provide AEMO with information and the associated obligations (e.g. the obligation not to provide false and misleading information) arises under sections 91FEE-91FEG.



- shippers to register as BB transportation facility users;
- a person to register as a capacity transaction reporting agent; and
- AEMO to register the GSH Operator (currently AEMO) under Part 18.³⁵⁴
- Set out the obligation that sellers in bilateral trades and the GSH Operator have to report trades to AEMO for publication on the Bulletin Board and specify:
 - the information on capacity trades to be reported to AEMO and the time at which the information must be reported;^{355,356} and
 - the information to be published by AEMO on the Bulletin Board (which must exclude the names of the trading parties).³⁵⁷
- Allow sellers in bilateral trades to appoint a person registered under Part 18 (including a capacity transaction reporting agent) to report capacity transaction information to AEMO on its behalf.³⁵⁸

Allocation arrangements

Part 18 of the NGR has been amended to set out the obligations of allocation agents to report information to AEMO. These amendments include provisions that:

- Identify the allocation agents that are subject to the reporting obligations, which includes allocation agents at:³⁵⁹
 - each service point on a Part 24 facility; and
 - each system injection point and system withdrawal point (each as defined in Part 19 of the NGR) for which an allocation agent is appointed under Part 19, excluding, in each case, a point at which the allocation of deliveries or receipts of natural gas is determined under the Retail Market Procedures. Allocation agents at these points are referred to as 'BB allocation agents' in Part 18 of the NGR and the allocation points are referred to as 'BB allocation points'.
- Set out the registration framework for BB allocation agents and BB allocation points.^{360,361,362}
- Specify the information that BB allocation agents must report to AEMO for each BB allocation point (in accordance with the Bulletin Board Procedures), for publication on the Bulletin Board.³⁶³
- Extend the application of the Bulletin Board information standard to information relating to allocation points.³⁶⁴

³⁵⁴ See rule 158C of the NGR.

³⁵⁵ See rules 190C and 141(2A) of the NGR.

³⁵⁶ See rule 190E of the NGR for the GSH Operator obligation.

³⁵⁷ See rule 195A of the NGR.

³⁵⁸ See rule 190D of the NGR.

³⁵⁹ See definitions of BB allocation point and BB allocation agent in rule 141(1) of the NGR.

³⁶⁰ See rules 158A and 158B of the NGR.

³⁶¹ See rule 160(5) and (6) of the NGR.

³⁶² See rule 161(6) of the NGR.

³⁶³ See rule 170A of the NGR.

³⁶⁴ See rule 165(2)(c) of the NGR.



The transitional rules also provide for allocation agents and allocation points to become 'existing BB allocation agents' and 'existing BB allocation points' (as applicable) for the purposes of the Bulletin Board on the commencement of the rules modifying Part 18, which then acts as a trigger for registration.³⁶⁵

Compression facilities

The transitional rules in Schedule 5, Part 5 of the NGR have been amended to:

- Set out the obligation that operators of Part 24 compression facilities have to provide information to AEMO for publication on the Bulletin Board. The operators of these facilities are referred to as 'reporting entities' in Schedule 5, Part 5 of the NGR.³⁶⁶
- Specify the information that reporting entities are required to provide AEMO, which is akin to the information that transmission pipelines subject to Bulletin Board reporting requirements are required to report.³⁶⁷
- Set out the information standard that reporting entities must comply with when reporting information to AEMO (i.e. the Bulletin Board information standard in Part 18 of the NGR) and other obligations that they have to update information and to provide information in the manner and form specified in the CT&A Procedures.³⁶⁸
- Allow the CT&A Procedures to include provisions regarding the information to be provided by reporting entities.³⁶⁹

These reporting obligations will commence on 1 February 2019 and end when the facility is registered as a Bulletin Board facility under Part 18.³⁷⁰

Other transparency related amendments

Part 18 of the NGR has also been amended to require:

- transmission pipelines to provide AEMO with information on the nameplate rating and short-term and medium-term capacity outlook for each receipt and delivery point for publication on the Bulletin Board;³⁷¹ and
- remote transportation facilities that would otherwise be excluded from the Bulletin Board reporting obligations but do not qualify for an exemption under Part 24 of the NGR, to be subject to the reporting obligations;³⁷²

³⁶⁵ See Schedule 5, Part 2, rule 4 of the NGR.

³⁶⁶ See Schedule 5, Part 5, rule 1 of the NGR

³⁶⁷ See Schedule 5, Part 5, rules 5-14 of the NGR.

³⁶⁸ See Schedule 5, Part 5, rules 3-4 of the NGR.

³⁶⁹ See Schedule 5, Part 5, rule 4(1) of the NGR.

³⁷⁰ The reporting obligation has been included in the Part 25 transitional rules rather than Part 18 because a separate amendment to the NGL is currently being progressed that will expand the scope of the Bulletin Board reporting obligations to include compressors. When this amendment is made, the AEMC will consider the second stage of its proposed Part 18 rule change, which provides for similar obligations to be applied to compression service facility operators. Once the new rules are implemented and the compression service facilities are registered under Part 18, the transitional rule in Part 5 of Schedule 5 will lapse.

³⁷¹ See the changes to the definition of 'daily capacity' and 'nameplate rating' in rule 141(1). See also rule 168(2A) of the NGR.

³⁷² See the change to the definition of 'remote pipeline' in rule 141 of the NGR.

8.2.3 Changes to the Regulations

Schedule 3 of the Regulations has been amended to classify a number of reporting related provisions as civil penalty provisions. A list of these provisions is set out in the table below.

Table 8.2: Civil penalty provisions

Provision		Type of penalty
NGL		
Section 223A	Obligation to give information to AEMO about secondary capacity transactions ³⁷³	Civil penalty
Part 18 of the NGR		
Rule 158A(1)	BB allocation agents must apply to AEMO to register under Part 18	Civil penalty
Rule 158A(2)	An application to register under subrule (1) must be made no later than 20 business days after the person becomes a BB allocation agent	Civil penalty
Rule 158B(1)	BB allocation agents must apply to AEMO to register their BB allocation points under Part 18 and be registered under Part 18 as the BB reporting entity for the BB allocation points	Civil penalty
Rule 158B(2)	An application to register under subrule (1) must be made no later than 5 business days after the relevant point becomes a BB allocation point	Civil penalty
Rule 158B(5)	An application for registration under subrule (3) must be made no later than 5 business days after the change takes effect	Civil penalty
Transitional rules – Schedule 5 of NGR		
Schedule 5, Part 5, rule 3(1)	A reporting entity required by Schedule 5, Part 5 of the NGR or the CT&A Procedures to provide information or data to AEMO must do so in accordance with the Bulletin Board information standard	Civil penalty
Schedule 5, Part 5, rule 3(2)	Where Schedule 5 Part 5 of the NGR requires information or data to be updated, the reporting entity must do so each time the facts or circumstances arise that require the information to be updated and notify the updated information to AEMO as soon as practicable	Civil penalty
Schedule 5, Part 5, rule 3(3)	A reporting entity required under Part 5 of Schedule 5 or the CT&A Procedures to provide updated information and data to AEMO must do so in accordance with the Bulletin Board information standard	Civil penalty

³⁷³ Note that the obligation for allocation agents to provide AEMO information is also a civil penalty provision by virtue of the amendments to section 223 of the NGL.

9. Standard market timetable

The final element of the capacity trading reform package involves the implementation of a standard market timetable that will provide for:

- a common gas day start time that will apply to all production, pipeline, compression and storage facilities and the facilitated markets operated by AEMO (i.e. the GSH, STTM and retail markets);³⁷⁴
- a common nomination cut-off time that will apply to Part 24 facilities and auction facilities; and
- a common auction service nomination cut-off time that will apply to auction facilities.

This reform, which is to be implemented by 1 October 2019, is expected to:³⁷⁵

- reduce the costs and complexities that market participants operating (or wishing to operate) across multiple jurisdictions face, including facility operators located at the interface of jurisdictions with different gas day start times; and
- increase the interoperability and interconnection between facilitated markets and, in so doing, promote participation and liquidity in these markets and trade between locations.

Further detail on the standard market timetable is provided below, along with an overview of the changes that have been made to the NGL, NGR and Regulations to give effect to this element of the reform package.

9.1 Overview of the standard market timetable

Table 9.1 provides an overview of the final design of the standard market timetable and the arrangements required to facilitate the transition to this timetable. This table should be read in conjunction with GMRG's final recommendations on the design of the capacity trading reform package, which provides further detail on the rationale for adopting a standard market timetable.³⁷⁶

As noted in Chapter 1, the only substantive changes that have been made to the final recommendations are that transitional provisions have been included in the legal and regulatory framework to:

- require AEMO and certain facility operators to publish information in the first half of 2019 on the arrangements for transitioning to the standard market timetable;
- require parties to negotiate in good faith if amendments to contracts are required to implement the new timetable and include a dispute resolution mechanism that parties can have recourse to if agreement cannot be reached; and
- provide parties that are required to implement the standard market timetable an immunity from civil monetary liability that may otherwise arise from its implementation.

These refinements to the final recommendations are expected to promote the NGO by providing for an orderly transition to the standard market timetable.

³⁷⁴ The gas day start time in the DWGM is already 6 am (AEST).

³⁷⁵ See AEMC, Final rule determination: National Gas Amendment (Gas Day Harmonisation) Rule 2017, 16 February 2017, pp. 21-24.

³⁷⁶ See GMRG, Final Recommendations on the Capacity Trading Reform Package (Standardisation, capacity trading platform and reporting framework for secondary trades), November 2017.

Table 9.1: Final design of the standard market timetable and arrangements to facilitate the transition to the standard timetable

Design Element	Detail
Standard market timetable	<p>The standard market timetable will commence on 1 October 2019 and provide for:</p> <ul style="list-style-type: none"> a standard gas day start time of 6 am (AEST) to be adopted by the operators of all production, transportation and storage facilities (excluding those in Western Australia)³⁷⁷ and in the facilitated markets (e.g. the GSH, STTM and retail markets); a standard nomination cut-off time of 3 pm (AEST) to be adopted by the operators of Part 24 facilities and auction facilities; and a standard auction service nomination cut-off time of 6:45 pm (AEST) to be adopted by the operators of auction facilities.
Transition to the standard market timetable	<p>To help market participants transition to the standard market timetable:</p> <ul style="list-style-type: none"> AEMO must publish information on the arrangements to transition to the standard gas day in each facilitated market by 1 April 2019.³⁷⁸ Production, transportation and storage facility operators³⁷⁹ that provide services to third parties must publish and provide to AEMO information about the facility's transition to the standard market timetable by the earlier of: <ul style="list-style-type: none"> 30 June 2019; and 20 business days before they implement the new gas day (this information may be updated from time to time).³⁸⁰ <p>To encourage a consistent approach to the transition, facility operators are required to use reasonable endeavours to ensure the arrangements are, to the extent reasonably practicable, consistent with the arrangements adopted by a connecting facility and the facilitated gas markets to which its facility is connected.³⁸¹</p> <p>The information published by facility operators must include information that would reasonably be expected to be required by a person to whom services are provided by means of the facility, the operator of a facility to which its facility is connected, or AEMO in its capacity as operator of a gas market. The information could, for example, include:</p> <ul style="list-style-type: none"> the nomination and scheduling arrangements on the last gas day before the timetable applies to the facility (if it will be shorter than 24 hours); any adjustments to capacity entitlements for that day for nomination, scheduling and billing purposes; and the proposed date for the transition (or parts of it, such as metering), if earlier than the transition date.³⁸² <p>In those cases where contracts must be amended to implement the standard market timetable, parties must negotiate in good faith to amend their contracts and can have recourse to a dispute resolution mechanism if the mechanism in their contract does not apply to this type of dispute.³⁸³</p> <p>Those required to implement the standard market timetable will also have a transitional immunity from any civil monetary liability they may incur from the use of the standard market timetable under their existing contracts.³⁸⁴</p>

³⁷⁷ See rule 676(3) of the NGR. The standard market timetable will not apply in Western Australia until the day an order under section 7A of the National Gas Access (WA) Act 2009 of Western Australia is published in the Western Australian Government Gazette.

³⁷⁸ See Schedule 5, Part 6, rule 3 of the NGR.

³⁷⁹ In addition to these measures, affected facility operators will be required to: establish and execute a program to make the necessary changes to metering infrastructure, flow control computers, IT and other systems; amend practices and procedures to give effect to the harmonised times; and where necessary, amend contracts to reflect the standard market timetable.

³⁸⁰ See Schedule 5, Part 6, rule 4(3) of the NGR.

³⁸¹ See Schedule 5, Part 6, rule 4(4) of the NGR.

³⁸² See Schedule 5, Part 6, rule 4(2) of the NGR.

³⁸³ See Schedule 5, Part 6, rule 5 of the NGR.

³⁸⁴ See clause 90 in Part 15 of Schedule 3 of the NGL.

9.2 Legal and regulatory framework

To implement the standard market timetable, a number of amendments have been made to the NGL, the NGR and the Regulations. It has also been necessary to:

- revoke the AEMC's *National Gas Amendment (Gas Day Harmonisation) Rule 2017 No. 2*, which provided for the harmonisation of gas day start times in the facilitated markets on 1 April 2021; and
- remake this rule to require the harmonisation of gas day start times in the facilitated markets to occur by 1 October 2019.

Further detail on the changes that have been made to the NGL, NGR and Regulations is provided below.

9.2.1 Changes to the NGL

To give effect to the standard market timetable, the NGL has been amended to:

- Define the scope of the standard market timetable and the standard gas day.³⁸⁵
- Identify the persons that may be required by the NGR to implement the standard market timetable in accordance with the NGR, which include transportation service providers, producers, storage providers, transportation facility users, allocation agents and any other persons of a kind prescribed in the Regulations.³⁸⁶
- Impose an obligation on those persons that are required by the NGR to use the standard market timetable to do so in accordance with the NGR.³⁸⁷
- Prohibit those persons that are required by the NGR to use the standard market timetable from making a false or misleading representation about the effect of the requirement to use the standard market timetable on prices of goods or services.³⁸⁸
- Make a consequential change to clarify that an obligation to use the standard market timetable prevails over the right for a pipeline service provider to enter into an agreement for access that differs from an applicable access arrangement.³⁸⁹
- Provide a person that is required by the NGR to use the standard market timetable an immunity from civil monetary liability for using the standard market timetable in accordance with the NGR.³⁹⁰ This immunity only applies to contracts entered into prior to the implementation of the standard market timetable and is therefore only a transitional immunity.
- Extend the subject matter of the NGR and the AEMC's rule making functions to include the standard market timetable.³⁹¹

³⁸⁵ See section 83B(2) and the definitions in section 2 of the NGL.

³⁸⁶ See section 83B(3) of the NGL.

³⁸⁷ See section 83C of the NGL.

³⁸⁸ See section 83D of the NGL.

³⁸⁹ See section 322 of the NGL.

³⁹⁰ See clause 90 in Part 15 of Schedule 3 of the NGL. A 'pre-harmonisation contract' means a contract or other arrangement entered into by a person before the commencement of section 90.

³⁹¹ See section 83B and Schedule 1 (items 68Y and 68Z) of the NGL.



The NGL has also been amended to give the SA Minister the power to revoke and remake the rule made by the AEMC in 2017 which provided for the harmonisation of gas day start times in the facilitated markets to occur on 1 April 2021,³⁹² to bring the commencement date forward to 1 October 2019.³⁹³

9.2.2 Changes to the NGR

In keeping with the amendments that have been made to the NGL and the final design of the standard market timetable, the NGR has been amended to include **Part 26 (Standard market timetable)**. This part of the NGR:

- Specifies the **standard gas day** start time (6 am AEST) to be employed by production, storage and transportation facilities and requires the operators of these facilities to use the standard gas day for nomination, scheduling and the provision of services provided by means of a natural gas facility.³⁹⁴
- Specifies the **standard nomination cut-off time** (3 pm AEST on gas day D-1) to be employed by operators of Part 24 facilities and auction facility operators.³⁹⁵
- Specifies the **auction service nomination cut-off time** (6.45 pm AEST on gas D-1) to be employed by auction facility operators.³⁹⁶
- Requires facility operators to ensure that the measurement and recording of quantities of gas correspond to the standard gas day (or periods shorter than a gas day if the first such period starts at the start of the standard gas day and last such period ends at the end of the standard gas day) in the following circumstances:
 - in the case of distribution pipelines, when the measurement and recording is carried out on an hourly or daily basis (e.g. an interval meter);³⁹⁷ and
 - in the case of other production, storage and transportation facilities, where the measurement and recording relates to gas injected into, or withdrawn from, the facility or produced by the facility.³⁹⁸

To deal with some of the transitional issues associated with the implementation of the standard market timetable, a number of transitional rules have also been included in Part 6 of Schedule 5 of the NGR. These transitional rules:

- Provide for the standard market timetable to **commence** on 1 October 2019 and require facility operators to take all necessary steps to ensure the timetable is in use in relation to their facilities no later than this date.³⁹⁹
- Require **AEMO** to publish information on the arrangements for transition to the standard gas day in each facilitated gas market no later than 1 April 2019.⁴⁰⁰

³⁹² AEMC, Final rule determination: National Gas Amendment (Gas Day Harmonisation) Rule 2017, 16 February 2017.

³⁹³ See section 294DA(1)(b) of the NGL.

³⁹⁴ See rules 678(1) and (4) of the NGR.

³⁹⁵ See rules 678(2) and (5)-(6) of the NGR.

³⁹⁶ See rules 678(3) and (6) of the NGR.

³⁹⁷ As set out in the note to rule 678, this obligation is not intended to extend to basic meters.

³⁹⁸ See rule 678(8) and (9) of the NGR.

³⁹⁹ See Schedule 5, Part 6, rules 1 and 2 of the NGR.

⁴⁰⁰ See Schedule 5, Part 6, rule 3 of the NGR.



- Require **facility operators** that provide services to third parties to:⁴⁰¹
 - (a) publish information (as may be reasonably expected by facility users, operators of connected facilities or AEMO) on the arrangements to transition to the standard market timetable by the earlier of 30 June 2019 and 20 business days before they implement the timetable (this information may be updated from time to time); and
 - (b) use reasonable endeavours to ensure the arrangements in (a) are, to the extent reasonably practicable, consistent with:
 - the arrangements adopted by a connecting facility; and
 - the facilitated gas markets to which its facility is connected, or in which users of its facility may participate.
- Set out what will occur if there are contracts that were entered into prior to the commencement of Part 26 of the NGR (referred to as 'pre-harmonisation contracts') that use a different gas day or nomination cut-off time to the standard market timetable. In short, the transitional rules provide for:^{402,403}
 - a party to such a contract to request an amendment to the contract to adopt the standard market timetable and other fair and reasonable amendments consequential on this amendment;
 - the parties to the contract to negotiate in good faith and execute an agreement that gives effect to the amendments; and
 - the parties to the contract to refer a dispute for determination by an expert under the expert determination rules if they are unable to reach an agreement and the dispute resolution mechanism in their existing contract does not apply to this type of dispute.

9.2.3 Changes to the Regulations

Schedule 3 of the Regulations has been amended to classify the obligation to use the standard market timetable in the NGL as a civil penalty provision.

⁴⁰¹ See Schedule 5, Part 6, rule 4 of the NGR.

⁴⁰² See Schedule 5, Part 6, rule 5 of the NGR.

⁴⁰³ Note that this does not extend to amendments that have the effect of depriving a person of a contractual right to be supplied with a certain amount of goods or services under the contract or paid for goods and services supplied under the contract. Note also that if the contract contains a change in law provisions, this provision will prevail over this rule to the extent of any inconsistency. See Schedule 5, Part 6, rules 5(1) and 5(3) of the NGR.

10. Key timings for obligations under the reform package

The tables on the following pages provide a summary of the key timings associated with the various obligations that market participants will be subject to under the capacity trading reform package. To aid those market participants that will be subject to the reforms, separate tables have been developed for:

- those transportation facilities and allocation agents located in the Australian Capital Territory, New South Wales, Queensland, South Australia, Tasmania and Victoria (outside the DTS) that are in existence at the commencement of the amendments to Parts 18 and 24 of the NGR (see Table 10.1);
- those transportation facilities that become subject to the reforms after Part 24 of the NGR commences, either because the facilities were commissioned after this date, or because an exemption has been revoked (see Table 10.2); and
- those transportation facilities that are wholly or partially located in the NT (see Table 10.3).

Table 10.1: Key timings for existing transportation facilities and allocation agents (excluding facilities located wholly or partly in the NT)

Date	Activity
Rules start date on or before 1 December 2018	A transportation facility commissioned on or before this date is an “existing transportation facility” for the purposes of the transitional arrangements in the NGR.
	A system injection point or system withdrawal point in the DTS that meets the relevant criteria in the NGR becomes an “existing BB allocation point” and the agent responsible for the point becomes an “existing BB allocation agent” for the purposes of the transitional arrangements in the NGR.
	Shippers using a Part 24 facility or a conditionally exempt facility can seek amendments to existing facility agreements if required to enable capacity trading to occur and can also use the new framework in the NGR to request changes to receipt and delivery points.
	New facility agreements must include provisions that permit shippers to sell capacity under an OTSA and must also give effect to the facilitation of trade principles in the NGR.
Rules start date + 20 business days	Last date for a transportation service provider for an existing transportation facility that is not the subject of an automatic exemption or a transitional exemption to apply to AEMO to register as a transportation service provider and to register the transportation facility. ⁴⁰⁴
	Last date for existing BB allocation agents for system injection and withdrawal points in the DTS that are existing BB allocation points to apply to AEMO to register as the allocation agent and to register the existing BB allocation point.
Registration date for existing transportation facilities	Date on which the allocation points on registered transportation facilities and on system injection points and system withdrawal points in the DTS become “existing BB allocation points” and the agents responsible for these points become “existing BB allocation agents” for the purposes of the transitional arrangements in the NGR.
Registration date for existing transportation facilities + 20 business days	Last date for existing BB allocation agents for non-DTS existing BB allocation points to apply to AEMO to register as the allocation agent (if not already registered) and to register the existing BB allocation points.

⁴⁰⁴ AEMO may, on the application of a service provider, register more than one facility as a single facility for the purposes of the reforms or register a part (or parts) of a transportation facility as separate facilities.

Date	Activity
Rules start date + 40 business days	Last date for transportation service providers for Part 24 facilities to publish a standard OTSA and a schedule of standardisation charges. If a shipper makes a request to enter into the standard OTSA, these transportation service providers have 20 business days (or longer if agreed to by the parties) to prepare and offer to enter into the agreement.
16 January 2019	Date by which auction facility operators must notify the AER that they intend to classify certain transportation services as 'transitional firm' services if the facility operator wishes the classification to apply from the commencement of the auction. ⁴⁰⁵
1 February 2019	The service providers of compression facilities registered as Part 24 facilities commence reporting a range of operational information to AEMO for publication on the BB.
1 March 2019	<p>First day on which the day-ahead auction (excluding NT transportation facilities) is conducted and the first day on which auction facility operators must:</p> <ul style="list-style-type: none"> provide AEMO with the information required to conduct the auction (e.g. the auction quantity limits); give effect to the results of the auction; keep and maintain nomination and scheduling records in accordance with the AER's record keeping guidelines; and comply with auction reporting obligations. <p>First day on which transportation service providers of Part 24 facilities are required to give effect to operational transfers, service continuity arrangements for trades conducted on the capacity trading platform and comply with transaction support arrangements.</p> <p>First day on which users of auction facilities must keep records of material changes in renominations in accordance with the AER's record keeping guidelines.</p> <p>First day from which shippers must comply with secondary capacity trading reporting obligations.</p>
2 March 2019	First day for use of auctioned capacity and capacity purchased through the capacity trading platform.
30 June 2019	Production, storage and transportation facility operators that provide services to third parties must publish information about their arrangements to transition to the standard market timetable.
1 October 2019	Standard market timetable comes into effect.
1 March 2021	Transitional firm rights cease at 6:00 am (AEST).

⁴⁰⁵ If an auction facility operator notifies the AER after this date, it will not be able to treat the services as a 'transitional firm' service for 30 business days after the notification.

Table 10.2: Key timings for new Part 24 facilities and allocation agents

Date	Activity
Date of commissioning / exemption ceases to apply or expires (application date)	Facility becomes a Part 24 facility.
Application date + 20 business days	<p>The transportation service provider of the Part 24 facility must apply to AEMO to register under Part 24.</p> <p>The transportation service provider must also apply to AEMO to register the Part 24 facility and to be registered as the transportation service provider for the Part 24 facility</p>
Registration date for new Part 24 facility	Allocation points on the newly registered Part 24 facility become “BB allocation points” and the agent responsible for the points become “BB allocation agents.”
Registration date for new Part 24 facility + 20 business days	Last date for the new BB allocation agents to apply to AEMO to register as allocation agents (if not already registered) and to register the BB allocation points.
Application Date + 40 business days	Last date for the transportation service provider to publish a standard OTSA and a schedule of standardisation charges. If a shipper makes a request to enter into the standard OTSA, the transportation service provider has 20 business days (or longer if agreed to by the parties) to prepare and offer to enter into the agreement.
Application date + 120 business days.	<p>First day on which the facility becomes subject to the day-ahead auction and the first day on which auction facility operators must:</p> <ul style="list-style-type: none"> provide AEMO with the information required to conduct the auction (e.g. the auction quantity limits); give effect to the results of the auction; keep and maintain nomination and scheduling records in accordance with the AER’s record keeping guidelines; and comply with auction reporting obligations. <p>First day on which the transportation service provider is required to give effect to operational transfers, service continuity arrangements for trades conducted on the capacity trading platform and to comply with transaction support arrangements.</p> <p>First day on which users of the new auction facility must keep records of material changes in renominations in accordance with the AER’s record keeping guidelines.</p>

Table 10.3: Key timings for NT transportation facilities

Date	Activity
Before NGP commissioning	NT transportation facilities that will require an exemption after the NGP is commissioned may apply to the AER for an exemption.
	Transportation service providers located wholly or partly in the NT that do not qualify for an exemption may apply to AEMO to register as a facility operator (if not already registered) and to register the transportation facility.
NGP commissioned (Commissioning date)	The automatic exemption for NT transportation facilities expires and NT transportation facilities fall within the scope of the operation of the capacity trading reform package (other than the day-ahead auction).
	Shippers using a Part 24 facility or a conditionally exempt facility can start to seek amendments to their facility agreements if required to enable capacity trading to occur and can also use the new framework in the NGR to request changes to receipt and delivery points.
	New facility agreements must include provisions that permit shippers to sell capacity under an OTSA and must also give effect to the facilitation of trade principles in the NGR.
Commissioning date + 20 business days	Last date for transportation service providers for Part 24 facilities located wholly or partly in the NT to apply to AEMO to register as a facility operator (if not already registered) and to register the transportation facility.
Commissioning date + 40 business days	Last date for transportation service providers for Part 24 facilities located wholly or partly in the NT to publish a standard OTSA and a schedule of standardisation charges. If a shipper makes a request to enter into the standard OTSA, the service provider will have 20 business days (or longer if agreed to by the parties) to prepare and offer to enter into the agreement.
Commissioning date + 90 days	"NT Application Date" for the BB under Part 18 of the NGR.
	An allocation point on a registered transportation facility in the NT becomes a "BB allocation point" and the agent responsible for the point becomes a "BB allocation agent" for the purposes of the transitional arrangements in the NGR (if it is not already).
Commissioning date + 90 days + 20 business days	Last date for NT facility operators to register with AEMO and register their facilities under Part 18 of the NGR (unless already registered or exempt from doing so).
	Last date for BB allocation agents in the NT that meet the relevant criteria in the NGR to apply to AEMO to register in that role (if not already registered) and to apply to AEMO to register the BB allocation point.
Commissioning date + 120 business days	First day on which transportation service providers of Part 24 facilities (located wholly or partly in the NT) are required to give effect to operational transfers, service continuity arrangements for trades conducted on the capacity trading platform and to comply with transaction support arrangements.
	First day on which shippers using Part 24 facilities located wholly or partly in the NT must comply with secondary capacity trading reporting obligations.
Expiration of derogation	Day-ahead auction applies to non-exempt NT transportation facilities. ⁴⁰⁶

⁴⁰⁶ See Senior Committee of Officials' Bulletin dated 3 July 2018 for more detail on the derogation.



Appendix A Stakeholder feedback

The legal and regulatory framework required to give effect to the capacity trading reforms was released for public consultation on 19 March 2018 and stakeholders were provided six weeks to provide feedback on the framework and a number of proposed refinements to the approved design.

In total, 24 submissions were received, 18⁴⁰⁷ of which were from organisations with interests across the gas supply chain, while the remainder were provided by the ECA, APGA, Chemistry Australia, EUAA, MEU and PIAC. A summary of the feedback provided by stakeholders and the GMRG's response to this feedback is provided below.

Note that the summary is intended to provide a snapshot of stakeholder views as articulated in their submissions. It does not therefore identify all of the issues raised, many of which related to specific drafting suggestions, which have been considered when preparing the final legal and regulatory framework. Copies of the public stakeholder submissions can also be accessed on the GMRG's website.

A.1 Feedback on the exemptions framework

The March 2018 consultation paper asked stakeholders for their views on the proposed exemptions framework and, in particular:

- the exemption categories;
- the requirement for conditionally exempt facilities to offer a standard OTSA within 60 business days of receiving a request from a prospective secondary shipper; and
- the proposal that a single user exemption be revoked if a prospective secondary shipper enters into an OTSA.

The responses stakeholders provided on these matters can be summarised as follows:

- **Exemption categories:** While most stakeholders supported the proposed exemption categories, the following stakeholders offered an alternative view:
 - The ECA, PIAC, Chemistry Australia and the EUAA were of the view that coverage of the reforms should be maximised and that the proposal to exempt single user facilities, facilities with a nameplate rating less than 10 TJ/day and distribution pipelines should be reconsidered. This group of stakeholders was particularly concerned about the potential for smaller transportation facilities, distribution pipelines and retailers on single user facilities to exercise market power. Elaborating further on the need for the reforms to apply more broadly, the EUAA noted that its members are seeing “direct evidence of monopoly behaviour by pipeline operators and parties that have purchased all available pipeline capacity” on pipelines that would be exempt from the auction.
 - The MEU suggested that the 10TJ/day threshold be lowered because the adoption of this threshold would “exclude a significant number of consumers from the benefit of capacity trading”. The MEU also suggested that a mechanism be included in the legal and regulatory framework that would allow users to apply for the reforms to be applied to a particular facility even if its capacity falls below the size threshold. The MEU noted that this would “provide an incentive for pipelines to

⁴⁰⁷ Note that one of these submissions was provided on a confidential basis.

cooperate with shippers and/or consumers”. AGL, AGIG, Gas Pipelines Victoria, and APGA, on the other hand, that the 10 TJ/day threshold was too low given the costs associated with implementing the reforms.

- Engie was of the view that DTS interconnection points should initially be exempt from the reforms. The MEU, on the other hand, was of the view that compression service facilities used in the transportation of gas from the DTS to other pipelines should be subject to the reforms.
 - APA, AGL and GLNG thought the proposed definition of compression services may not capture all the facilities it is intended to and suggested an alternative approach be adopted to ensure these facilities are captured.
 - Palisade believed that exemptions should be available to facilities that are less than 70% contracted and where there is no reasonable prospect of recovering the costs associated with the reforms.
 - Jemena thought the reforms should only apply to facilities and key routes that are fully contracted. Jemena also suggested that exemptions be available to facilities if there are no trades on the capacity trading platform or the auction within a 12-month period.
- **Conditionally exempt facilities obligation to offer a standard OTSA:** While most stakeholders thought the requirement for conditionally exempt facilities to offer a standard OTSA within 60 business days was reasonable, Alinta, Palisade and APGA were of the view that the time period should be extended. Alinta suggested the period be extended to six months, while Palisade suggested it be extended to 120 days. APGA, on the other hand, suggested that if a service provider receives a request it should be required to submit an implementation schedule to the regulator and specifying the time through that process.
- AGL, GLNG, APGA and Alinta also raised concerns about the potential for the obligation to offer a standard OTSA to be used for “vexatious” purposes by shippers and suggested that safeguards be put in place to ensure that transportation service providers only have to respond to genuine requests that are made in good faith.
- **Revocation of single user exemptions:** Palisade and APGA expressed some concerns about the trigger for the revocation of a single user exemption being the entry into a standard OTSA and noted that if there was no real prospect of additional shippers using the capacity, the revocation would create a significant administrative burden for no benefit. Palisade and APGA therefore recommended that this type of revocation be considered on a case-by-case basis.
 - **Fast-track exemptions for facilities that already have a Part 23 exemption:** Alinta, APLNG and GLNG suggested that exemptions be made available to pipelines that have obtained equivalent exemptions under Part 23 of the NGR automatically or on a fast-track basis.
 - **Exemptions from other elements of the reform package:** GLNG noted that the exemption framework does not currently apply to all elements of the reform package and suggested a number of refinements to the NGL and NGR to extend the application of the exemptions to other obligations.

The GMRG’s responses to these issues are set out in the table below.

Table A.1: Response to issues raised on the exemption framework

Stakeholder concern	GMRG response
Exemption categories	<p>The GMRG has considered the sometimes conflicting views expressed by stakeholders about the exemption categories and notes the following in response to those views:</p> <ul style="list-style-type: none"> ▪ Distribution pipelines: While the GMRG understands the desire of some stakeholders for the reforms to extend to distribution pipelines, it is difficult to do so at this stage because their inclusion was never contemplated by the AEMC when it recommended the adoption of the reforms or the Energy Council when it endorsed the AEMC's recommendations. As a consequence, no consideration was given to the feasibility of extending the reforms to distribution pipelines when the GMRG was developing the design of the capacity trading platform and auction. Rather than delaying the implementation of the reforms to consider this issue, the GMRG is of the view that the extension of the reforms to distribution pipelines should be separately considered through the post-implementation review that is expected to occur in 2021. ▪ Size threshold: The GMRG has considered the alternative views expressed by stakeholders about the 10 TJ/day nameplate rating threshold used in the exemptions framework. While the GMRG understands the concerns raised by consumer and user representatives, in its view the 10 TJ/day threshold strikes an appropriate balance between the costs and the benefits that are likely to be experienced, particularly in the early stages of the market's development. The GMRG notes though that there would be value in further consideration being given to extending the coverage of the reforms to facilities with a nameplate rating less than 10 TJ/day through the post-implementation review that is expected to occur in 2021. ▪ Compression facilities: The GMRG agrees that the original draft rules may not have captured the compression facilities that were intended to be captured. To overcome this issue, the compression facilities that are intended to be captured from market start have been designated in the Regulations.⁴⁰⁸ Other stand-alone compressors (i.e. compressors that are or may be used to facilitate the flow of gas between transmission pipelines) that are not designated in the Regulations may apply for an exemption if they meet the relevant exemption criteria. If they do not meet these criteria they will also be subject to the reforms. ▪ DTS: The DTS will be exempt from the obligations set out in Parts 24 and 25 of the NGR because it operates under the market carriage model. While Engie has suggested that all DTS interconnection points should be exempt from the reforms in the initial stages, the GMRG does not consider this necessary and notes that limiting the application of the reforms in this way would result in some key receipt and delivery points being excluded from the reforms (e.g. Culcairn, VicHub, Iona). ▪ Contractual congestion: The issue of whether the capacity trading reforms should only apply to contractually congested facilities was considered at length in 2017 and was the subject of independent advice provided by NERA Economic Consulting. As noted in the GMRG's Final Recommendations on the day-ahead auction, NERA found that there are no efficiency related reasons to limit the reforms to contractually congested facilities and wider coverage can be expected to generate greater efficiency benefits.⁴⁰⁹ The GMRG therefore recommended broader coverage of the reforms, which was endorsed by the Energy Council. The matters that Palisade and Jemena have subsequently raised in response to the March 2018 consultation paper have not altered the GMRG's view on this issue. The GMRG remains therefore of the view that the inclusion or exclusion from the reforms should not be based on the level of contractual congestion.

⁴⁰⁸ Note that the compression facilities designated in the Regulations can still apply for an exemption if they are not providing third party access, are a single user facility or have a nameplate rating less than 10TJ/day.

⁴⁰⁹ GMRG, Final Recommendations: Design of the Day-Ahead Auction of Contracted but Un-Nominated Capacity, December 2017, p. 102.

Stakeholder concern	GMRG response
	<p>As to Jemena's suggestion that exemptions should be available if no trade occurs within a 12-month period, the GMRG is of the view that this would be difficult to implement in practice because a separate trigger would also need to be included to enable these facilities to become subject to the reforms again. This is, nevertheless, a refinement that could be considered as part of the post-implementation review.</p> <p>The exemptions framework in Part 24 of the NGR reflects the GMRG's views on each of these matters.</p>
<p>Obligation for conditionally exempt facilities to offer a standard OTSA</p>	<p>The GMRG has considered the issues raised about the length of time that conditionally exempt facilities will have to respond to a request for an OTSA, but remains of the view that a 60-business day period is appropriate given that the majority of the OTSA will comprise standard terms and conditions.</p> <p>The GMRG has also considered the concerns that have been raised about the potential for shippers to make 'vexatious' requests to conditionally exempt facilities to impose costs on these facilities. To address these concerns, the obligation for conditionally exempt facilities to offer a standard OTSA has been amended to only require an offer to be made if an 'eligible request' is received. The term 'eligible request' is defined as a request made by a prospective secondary shipper that:</p> <ul style="list-style-type: none"> ▪ meets the eligibility criteria in Part 24 of the NGR – for example, the shipper must be: <ul style="list-style-type: none"> – resident in Australia or have a permanent establishment in Australia; – incorporated or constituted under the Corporations Act (or if not, satisfy the service provider it is duly incorporated and has the legal capacity to enter into and perform its obligations under a standard OTSA); and – capable of being sued in its own name; and ▪ intends to enter into the standard OTSA and use its reasonable endeavours to procure capacity on the transportation facility. <p>This amendment is reflected in Part 24 of the NGR.</p>
<p>Revocation of single user facility exemptions</p>	<p>The GMRG has considered the issues raised by Palisade and APGA about the revocation of single user facility exemptions and agrees there may be some circumstances where further consideration would need to be given to whether an exemption should be revoked. For example, if a secondary shipper only wanted to enter into an OTSA for a three month period, it may be appropriate to consider whether the exemption should be revoked given the costs that would be incurred once the exemption is revoked.</p> <p>Part 24 of the NGR has therefore been amended to provide the AER with some discretion when considering the revocation of these types of exemptions and to allow it to take into account:</p> <ul style="list-style-type: none"> ▪ the circumstances in which the facility will cease to qualify for the exemption; and ▪ whether the circumstances are reasonably likely to continue and, if so, for how long.
<p>Fast-track exemptions for facilities that have a Part 23 exemption</p>	<p>The GMRG agrees with Alinta, APLNG and GLNG that a fast-track exemption process should be available if a transportation facility has obtained an exemption under Part 23 of the NGR because it does not provide third party access or only supplies a single user. Provision has therefore been made in Part 24 of the NGR for the AER to grant exemptions on its own initiative based on its understanding that a facility meets the criteria in Part 24, rather than requiring transportation service providers to go through the standard application process. This power will enable the exemption process for facilities that have obtained the relevant exemption under Part 23 of the NGR to be fast-tracked.</p>



Stakeholder concern	GMRG response
Exemptions from other elements of the reform package	<p>As GLNG has pointed out, the exemptions framework set out in Part 24 of the NGR does not apply to all elements of the capacity trading reform package. It does not, for example, apply to:</p> <ul style="list-style-type: none">▪ the reporting obligations for secondary capacity trades in Part 18 of the NGR, which apply to shippers using any transportation facility, irrespective of whether the facility has an exemption or not; or▪ the obligation to publish information about the transition to the standard market timetable. <p>The decision to limit the scope of the exemptions in this way was intentional, because:</p> <ul style="list-style-type: none">▪ The obligation to report secondary capacity trades applies to trading parties rather than on facility operators. While consideration was given to exempting trading parties from reporting trades on transportation facilities that are not subject to the auction or the capacity trading platform, the GMRG is of the view that there is still value, from a price discovery perspective, in requiring trades on these facilities to be reported. The GMRG does not therefore consider it appropriate to extend the Part 24 exemptions framework to this obligation.▪ The obligation to publish information about the transition to the standard market timetable applies to a broader group of facilities than Part 24 and 25 (e.g. it applies to distribution pipelines, storage facilities, production facilities, single user transmission pipelines and transmission pipelines with a nameplate rating less than 10TJ/day) and the intention of the obligation is to enable users of these facilities, the operators of interconnected facilities and AEMO to understand how the standard market timetable will be implemented. The GMRG does not therefore consider it appropriate to extend the Part 24 exemptions framework to this obligation. Having said that, it is worth noting that the obligation to publish information does not extend to facilities that are not providing services to third parties.



A.2 Feedback on measures to facilitate trade and the auction

The March 2018 consultation paper asked stakeholders to provide their views on the proposed refinements to:

- the governance model for the Code and the role to be played by the AER when considering changes to the Code;
- the way in which contractual limitations on capacity trading in facility agreements will be addressed; and
- the governance arrangements for the specification of service points, zones and pipeline segments used in the auction, trading platform and reporting framework.

Stakeholders were also asked to provide their views on the service provider cost recovery arrangements.

An overview of the feedback that stakeholders provided on these issues and the GMRG's responses to this feedback, is provided below.

A.2.1 Governance model for the Code

Stakeholders raised the following concerns about the governance model for the Code:

- **AEMO's role on the Panel:** APA and Epic expressed concerns about AEMO's appointed Panel member having the casting vote. APA also expressed concerns about the AEMO member being the chair and suggested that this role should be rotated between members.
- **Panel quorum:** APA expressed some concerns about the quorum requirements for the Panel and suggested that a quorum comprise AEMO and one transportation service provider representative and one shipper representative.
- **Panel composition:** PIAC, Origin and Jemena were broadly supportive of the proposed composition of the Panel, but a number of other stakeholders suggested changes to the composition. For example:
 - A number of shippers raised concerns about the nature and extent of shipper representation, including:
 - AGL who thought that shippers, as the main traders of capacity (whether as producers, retailers or end users), were under-represented;
 - ERM who thought the Panel should include a small shipper; and
 - Power and Water Corporation (PWC) who thought that shippers on the Panel should be users of different infrastructure (preferably including users in the NT).
 - Palisade agreed in general with the Panel's composition but suggested that a small and large service provider be represented on the Panel.
 - The ECA thought a consumer representative should be included on the Panel.

- **Conflict of interest provisions:** APA suggested that the conflict of interest provisions be clarified and that organisations represented on the Panel not be prevented from proposing amendments to the Code.
- **AER's ability to initiate changes to the Code:** Stakeholders raised the following points about the AER's ability to initiate Code amendments:
 - Many stakeholders were supportive of the AER having this role, provided that it undertakes appropriate consultation with stakeholders.
 - Several stakeholders noted that the AER having the role was a departure from existing practice. The ECA, for example, suggested that consideration be given to how the integrity and credibility of this role and the AER's role as regulator could be supported and maintained.
 - Palisade thought that a better solution to the concerns that have been raised about the potential for the Panel to reach an impasse was to require a review of the effectiveness of the Panel to be carried out after a defined period.

The GMRG's response to stakeholder feedback on the governance model for the Code is provided in the table below.

Table A.2: Response to issues raised on the governance model for the Code

Stakeholder concern	GMRG response
AEMO's role on the Panel	<p>The GMRG has considered the concerns raised by stakeholders about AEMO's role on the Panel, but is of the view that the AEMO Panel member should be the chair and have a casting vote at Panel meetings because:</p> <ul style="list-style-type: none"> ▪ as operator of the capacity trading platform and day-ahead auction, AEMO will have greater insights into issues associated with the Code than other Panel members; and ▪ AEMO will be better placed than other Panel members (who will represent either shippers or transportation service providers) to provide an unbiased assessment of Code amendment proposals. <p>The GMRG also has concerns with APA's proposal to rotate the role of chair, because this could potentially be gamed by shippers or service providers.⁴¹⁰</p>
Quorum at Panel meetings	<p>The GMRG has considered the issues raised by APA about the quorum requirements, but is concerned that the change proposed by APA could be exploited by Panel members and undermine the Panel's ability to assess Code amendment proposals.⁴¹¹</p> <p>The other point to note about the quorum requirements is that Panel members will have the right to appoint alternates. Panel members can therefore exercise that right if they are unable to attend or vote on a matter at a meeting.</p>
Panel composition	<p>The GMRG has considered the proposal by some stakeholders to increase the number shipper representatives, but is concerned that an imbalance in the representation of transportation service providers and shippers could adversely affect the development of the Code and parties to standard OTSAs over time.</p> <p>The GMRG has also considered the suggestion by some stakeholders that the rules require representation from specific groups on the Panel (e.g.</p>

⁴¹⁰ For example, shippers or service providers could make Code amendment proposals at times when their interests are likely to be better represented through the chair's casting vote.

⁴¹¹ For example, if the shipper representatives were concerned that an unfavourable proposal may be passed at the meeting they could both decide not to attend the meeting. This could result in the quorum requirements not being met.

Stakeholder concern	GMRG response
	<p>small shippers, shippers using different infrastructure and small and large service providers). The GMRG is, however, reluctant to hard-wire these requirements into the NGR because it may introduce unnecessary complexity into the election procedures.</p> <p>As to the ECA's suggestion that a consumer representative be included on the Panel, the GMRG is of the view that a more effective way for consumers' views to be taken into account is to:</p> <ul style="list-style-type: none"> ▪ allow the Panel and the AER to seek the advice of consumer representatives; and ▪ require the Panel and the AER to invite submissions on Code amendment proposals from interested parties, including consumer representatives.⁴¹² <p>This is now reflected in Part 24 of the NGR.</p>
Conflict of interest provisions	<p>The GMRG agrees with APA that the conflict of interest provisions should be clarified and also agrees that there should not be a blanket prohibition on either:</p> <ul style="list-style-type: none"> ▪ an organisation that has a member on the Panel from putting forward amendment proposals; or ▪ a Panel member voting on a proposal made by the organisation it is employed by or who nominated it to the Panel. <p>In the GMRG's view, any potential conflicts arising from these types of situations should be assessed on a case-by-case basis by the Panel, having regard to the materiality of the conflict of interest. Part 24 of the NGR has been amended accordingly.</p>
AER's ability to initiate changes to the Code	<p>The GMRG has considered the concerns raised by some stakeholders about the AER's role in amending the Code, but remains of the view that the AER should have a power to amend the Code on its own initiative, following consultation with the Panel, AEMO and other interested parties.</p> <p>In the GMRG's view, according the AER this role provides an appropriate balance between ensuring that market participants, through the Panel, have a central role in the development of the Code, and allowing the AER, as regulator, to ensure the Code is operating as intended and continues to promote the NGR and the Code objective.</p> <p>According the AER this power is not intended to circumvent the Panel. Rather, it is to provide the Panel with an additional incentive to work effectively and ensure that any impasse does not adversely affect the development of the secondary capacity market and auction. As a number of stakeholders pointed out, it will be important that, when exercising this power, that the AER consult with stakeholders. Part 24 of the NGR provides for this to occur and also allows the AER to seek the advice of consumer and industry representatives, where appropriate.</p> <p>As to the concerns that have been raised about this being an unusual role for the AER and potential conflicts with its role in monitoring compliance, the GMRG does not consider this to be a significant issue and notes that:</p> <ul style="list-style-type: none"> ▪ it is unlikely that the AER will regularly initiate Code amendment proposals; and ▪ it is open to the AER to implement appropriate protocols to minimise any actual or perceived conflicts.

⁴¹² The Panel's and the AER's obligations to undertake consultation do not apply for amendments that are urgently necessary or non-material.



A.2.2 Measures to overcome contractual limitations

Stakeholders were generally supportive of the GMRG's proposal to allow existing facility agreements to be amended on a case-by-case basis to accommodate capacity trading, rather than amending those agreements through legislative provisions or standard-form agreements. Stakeholders did, however, raise the following issues:

- **Offer period for amending agreements:** Several service providers indicated that they needed longer than 30-days to prepare an amending agreement following receipt of a shipper's request. APA also suggested that additional time be provided for a transitional period following the implementation of the reforms, because they expected to receive numerous requests to amend agreements during this period.
- **Principles for terms to facilitate sale by operational transfer:** Service providers expressed some concerns about the requirement to unbundle services, with a number noting that the draft rules appeared to suggest that they would be required to unbundle services that were ordinarily sold on a bundled basis even where it was not operationally feasible to do so. Service providers also raised concerns about the requirement to permit trades of hourly entitlements, imbalance entitlements and other contractual entitlements.
- **Changes in receipt and delivery points:** A number of service providers were of the view that the draft provisions in the NGR did not provide adequate financial protection for the costs they would incur and lost income that they would suffer, as a consequence of allowing shippers to change receipt and delivery points. A number of stakeholders also thought the reference to 3 January 2018 in this section of the draft rules was unreasonable and should be based on the date the reforms take effect.

The GMRG's responses to this feedback are set out in the table below.

Table A.3: Response to issues raised regarding contractual limitations

Stakeholder concern	GMRG response
Offer period for amending agreements	<p>The GMRG has considered the concerns raised by service providers regarding the 30-day period and agrees that this should be lengthened as follows:</p> <ul style="list-style-type: none"> for requests made prior to 1 March 2019, transportation service providers should have 45 business days to provide an amending agreement in response to a request from a shipper; and for requests made post 1 March 2019, transportation service providers should have 30 <i>business days</i>⁴¹³ to provide an amending agreement in response to a request from a shipper, rather than 30 days. <p>Part 24 of the NGR and the transitional rules in Schedule 5 of the NGR have been amended accordingly.</p>
Principles for terms to facilitate sale by operational transfer	<p>The GMRG understands the concerns raised by service providers regarding the drafting of the provisions relating to the unbundling of services and notes that it was not the intention to require service providers to unbundle services that were not otherwise sold on an unbundled basis. These provisions in Part 24 of the NGR have therefore been amended to make it clear that unbundling of services is only required if:</p> <ul style="list-style-type: none"> the unbundled services are available as a separate transportation service to other shippers using that facility; and it is technically and operationally feasible to provide the services as separate services in a manner consistent with the safe and reliable operation of the transportation facility. <p>In relation to the other concerns raised by service providers, the GMRG notes that the requirement to facilitate trades of other contractual entitlements only applies to the extent that the transfer can occur in a manner consistent with the operational and technical requirements necessary for the safe and reliable operational of the transportation facility. In the GMRG's view this limitation is appropriate and no further limitations are required.</p>
Changes in receipt and delivery points in facility agreements	<p>The GMRG has considered the issues raised by service providers regarding the costs associated with making changes to receipt and delivery points. While the GMRG considers that sufficient protection was provided for in the draft rules, some minor amendments have been made to Part 24 of the NGR to allow transportation service providers to:</p> <ul style="list-style-type: none"> require, as a condition of giving consent to a request, the shipper pay an additional charge reflecting any additional tariff or other charge applicable to the transportation of natural gas to that point (provided the charge reflects the charges applicable to the facility); and consider whether the revenue received by the service provider from the transportation facility or any other person would be reduced as a result of the change when deciding whether to provide its consent. <p>In relation to the concerns raised about the use of the 3 January 2018 date in this part of the NGR, the GMRG notes that this date, which is the date the Energy Council approved the design of the day-ahead auction, was originally adopted because the GMRG was concerned that market participants could try and circumvent certain provisions in the NGR if a future date was hard wired into the regulatory framework.</p> <p>While the GMRG still has these concerns, it recognises that transportation service providers may have entered into contracts between 3 January 2018 and 19 March 2018 (i.e. the date the consultation package was released) in good faith without knowing about the proposed drafting of particular provisions. The reference to 3 January 2018 in Part 24 of the NGR has therefore been replaced with 19 March 2018.</p>

⁴¹³ Note that the draft rules only provided for 30 days, so the extension to 30 business days will provide transportation service providers approximately two extra weeks.



A.2.3 Governance arrangements for the specification of service points, zones and pipeline segments

Stakeholders provided the following feedback on the proposed governance framework for service points, zones and pipeline segments:

- **AEMO's role:** The majority of stakeholders were supportive of the proposal to accord AEMO responsibility for determining zones. AGL, ERM, Origin, GLNG, APLNG, Chemistry Australia and the ECA did, however, note that before making a determination, AEMO should be required to consult with market participants. ERM suggested that this requirement be included in the NGR and also suggested that provision be made for the AER to conduct a review of these determinations either on its own initiative or in response to concerns raised by stakeholders.

In contrast to these stakeholders, APGA, Jemena and Palisade were of the view that the determination of zones was an operational matter that should be left to transportation service providers and, if required by AEMO, could be subject to independent certification by an engineer.

- **Principles to guide the development of zones:** While the principles in the draft rules were supported by most stakeholders:
 - the ECA and Chemistry Australia raised some concerns about the potential for single point zones to become the default given the way the principles were drafted and noted that if this occurred it could limit competition and the benefits of the reforms.
 - APA, AGL, APGA and Jemena, suggested the principles should also require consideration to be given to:
 - the physical characteristics of the pipeline (APA, AGL, APGA and Jemena);
 - whether capacity can be transferred on a near one-to-one basis (APA);
 - any tariff zones employed by the service provider (APA and Jemena); and
 - the rights of shippers and the obligations of transportation service providers under existing contracts (Jemena).
- **Other matters:** In addition to the matters set out above, Origin and Palisade noted the importance of AEMO publishing information on the ability to transfer capacity between points within a zone so that secondary shippers understand the risks associated with transferring capacity before they purchase the product. The ECA and Chemistry Australia also noted that it would be important for AEMO to ensure that zonal definitions remain appropriate over time given the dynamic changes in demand and supply for capacity that are occurring in the market.

The GMRG's response to the feedback provided by stakeholders on this issue are set out in the table below.

Table A.4: Response to issues raised on governance arrangements for the specification of zones

Stakeholder concern	GMRG response
Responsibility for determining zones	<p>The GMRG agrees with the majority stakeholders that AEMO should be accorded responsibility for determining zones because in its view, AEMO is best placed to ensure that any market and operational trade-offs associated with defining zones are appropriately balanced. If the determination was limited to operational matters only then it is possible that service providers could play this role, but as noted in the March 2018 consultation paper the specification of zones will have broader reaching implications for the market. The GMRG is therefore of the view that AEMO is the appropriate party to make this determination.</p> <p>The GMRG also agrees with the majority of stakeholders that before making a determination AEMO should be required to consult with interested parties. This requirement is reflected in Part 24 of the NGR.</p> <p>As to ERM's suggestion that the AER should be able to conduct a review of the zonal determinations, the GMRG does not consider this necessary at this stage because it believes this role can be carried out by AEMO. If, however, it becomes clearer over time that a review mechanism is required, this could be contemplated through a rule change request.</p>
Principles for determining zones	<p>The GMRG has considered the feedback stakeholders provided on the principles for determining zones and agrees that some refinements to these principles are required to address the concerns raised about:</p> <ul style="list-style-type: none"> the potential for single point zones to become the default; the requirement for consideration to be given to the physical characteristics of a pipeline; and the requirement for consideration to be given to the potential curtailment of capacity. <p>The principles in Part 24 of the NGR have therefore been amended.</p> <p>In relation to the other matters raised by service providers, the GMRG is of the view that:</p> <ul style="list-style-type: none"> a principle requiring AEMO to consider contractual obligations would be impractical to implement (i.e. due to the confidential nature of contracts) and could undermine the effectiveness of the reforms; and the principles would already allow AEMO to consider the impact of any tariff zones on the specification of zones (i.e. when considering the impact of the zonal specification on trade in products). <p>No refinements have therefore been made to address these matters.</p>
Other matters	<p>The GMRG agrees with Origin and Palisade that there would be benefit in AEMO publishing information on the curtailment of capacity in a zone so that shippers can understand the risks surrounding deliverability within a zone. Provision has therefore been made in Part 24 of the NGR for facility operators to provide AEMO with information on curtailments within a zone and for AEMO to publish this information on the Bulletin Board.</p> <p>As to the ECA and Chemistry Australia's suggestion, the GMRG notes that the governance framework allows for any interested party (including AEMO) to propose a change to zone specifications at any time. This should ensure that the currency of zonal definitions is maintained over time.</p>

A.2.4 Transportation service provider cost recovery

The March 2018 consultation paper sought stakeholder feedback on whether the cost recovery arrangements for transportation services providers provided sufficient protection



against the risks some shippers had raised regarding 'gold plating' and over-recovery of costs, or if additional measures were required.

The shippers and user groups that responded to this question agreed that there was a risk that the cost recovery mechanism could be exploited by service providers and noted that the costs would ultimately be borne by shippers and end-users. To address this risk, some stakeholders suggested that further consideration be given to requiring the AER to conduct an ex ante review of service providers' costs and other measures (such as benchmarking or an output-based assessment) be employed (AGL, Chemistry Australia and ECA).

Other stakeholders, on the other hand, thought the proposal to allow the AER to conduct an ex post review if it or other interested parties had concerns with the charges was sufficient (PIAC, ERM and PWC), but suggested that this could be strengthened by:

- requiring the AER to conduct a review within the first 12 months (ERM); or
- allowing the AER to require an independent audit of costs (PWC).

The MEU also noted the importance of consumers being involved in any assessment of whether the costs are acceptable.

The service providers that responded to this question (APA, Jemena and Palisade) were not opposed to the AER being able to conduct an ex post review of their costs and charges. They did, however, raise concerns about the proposed drafting of the cost recovery mechanism in Part 24 of the NGR. For example:

- APA stated that service providers should be able to recover the incremental costs associated with their obligations under Part 25 of the NGR, while Jemena stated they should be able to recover the costs associated with implementing the standard market timetable and any other procedures or protocols issued by AEMO;
- Jemena stated that it was unclear who service providers would be able to recover costs from and noted that it may be necessary to impose additional charges on existing primary shippers as a 'change in law' cost; and
- APA and Palisade raised concerns about the proposal to classify a number of the cost recovery provisions as civil penalty and conduct provisions.

The GMRG's responses to this feedback are provided in the table below.

Table A.5: Response to issues raised on service provider cost recovery

Stakeholder concern	GMRG response
Review mechanism	<p>The GMRG understands the concerns that shippers and user groups have expressed about the potential for the cost recovery mechanism to result in service providers ‘gold plating’ their systems or trying to recover more than the incremental costs from shippers. The GMRG is, however, concerned about:</p> <ul style="list-style-type: none"> the costs that would be associated with requiring the AER to conduct an ex ante review of the standardisation costs and charges levied by all service providers given that this would not be a one-off review; and the practicalities associated with using an output-based recovery mechanism. <p>The GMRG remains therefore of the view that an ex post review mechanism that allows the AER to initiate a review at any point in time is the more appropriate review mechanism to adopt in this context.</p> <p>That said, the GMRG does think there would be merit in implementing the additional measures proposed by ERM and PWC. Provision has therefore been made in the transitional rules in Schedule 5 of the NGR for the AER to:</p> <ul style="list-style-type: none"> conduct a review of the compliance of the standardisation costs and charges with the cost recovery and charging principles within the first 12 months of the capacity trading platform and day-ahead auction being implemented; require an independent audit of the standardisation costs to be conducted as part of this review; and seek input from users and other interested parties when conducting the review.
Other matters raised by service providers	<p>The GMRG has considered the issues raised by service providers about the drafting of the cost recovery provisions and agrees with APA that the cost recovery rule should refer to Part 25 of the NGR. In relation to Jemena’s concerns, the GMRG notes that:</p> <ul style="list-style-type: none"> the costs associated with negotiating changes to contracts to implement the standard market timetable is a matter for the parties to negotiate; and to the extent the implementation of the standard market timetable affects the operation of systems and processes that are required under Part 24, Part 25 or the CT&A Procedures then this could be recovered, but this is already provided for in the cost recovery mechanism. <p>In relation to who costs can be recovered from, the GMRG notes that transportation service providers have some discretion to determine whether charges are imposed on secondary shippers only or a combination of primary and secondary shippers.⁴¹⁴ This discretion is reflected in Part 24 of the NGR.</p>

A.3 Feedback on the capacity trading platform

The March 2018 consultation paper sought stakeholder feedback on the proposed legal and regulatory framework for the capacity trading platform. APA and Palisade were the only stakeholders that responded to this part of the consultation paper, both of whom raised concerns about the service continuity provisions that would be triggered if a primary facility agreement was terminated.

Palisade, for example, expressed some concern about the proposal to base the price payable to service providers on the price payable under the capacity trade and stated that it should be based on the price payable by the primary shipper. APA also raised some concerns about the requirement for AEMO to determine the price to be paid to service providers and noted that this could result in AEMO determining the price of primary

⁴¹⁴ GMRG, Capacity Trading Reform Package (Standardisation, capacity trading platform and reporting framework for secondary trades), November 2017, p. 50.

capacity. APA also claimed that the liability incurred by a secondary shipper in the service continuity period could exceed the credit support limits governing secondary trades and suggested a participant compensation fund be established to fund the cost of any default.

The GMRG's responses to these concerns are summarised in the table below.

Table A.6: Response to issues raised about the capacity trading platform

Stakeholder concern	GMRG response
Price to be paid to service providers if a primary facility agreement is terminated	<p>The price to be paid to the service provider if a primary facility agreement is terminated was considered in the consultation carried out in 2017 and culminated in the GMRG's final recommendation to the Energy Council that:⁴¹⁵</p> <ul style="list-style-type: none"> ▪ transportation service providers be required to honour any trades entered into by a primary shipper for up to two weeks following notification of the termination of the primary facility agreement to AEMO; and ▪ transportation service providers receive the amount the primary capacity holder would have received from the secondary shipper in return for doing so. <p>In the GMRG's view, the price received from the secondary shipper is the appropriate price to use in this context because:</p> <ul style="list-style-type: none"> ▪ if a primary facility agreement is terminated, transportation service providers should still have a claim for payment from the primary shipper under the primary facility agreement; ▪ transportation service providers are better placed to manage this risk of termination than secondary shippers. because the termination decision is within their control; and ▪ if the price was based on the price payable under the primary facility agreement, secondary shippers would not know what their potential liability is before entering into the trade because the prices payable under primary facility agreements are not public. <p>The GMRG therefore disagrees with Palisade's proposal to use the price payable under the primary facility agreement.</p> <p>As to APA's concern regarding the potential for this rule to result in AEMO setting the price for primary capacity, the GMRG notes that Part 24 of the NGR has been amended to limit the discretion AEMO has to determine this price. Under the amended rules, the price must be determined by reference to the price (or prices) at which the seller sold the capacity through the exchange.</p>
Secondary shippers' liability and proposed participant compensation fund	<p>In relation to the concerns raised by APA about credit support, it is worth noting that the credit support arrangements underpinning the capacity trading platform provide for:</p> <ul style="list-style-type: none"> ▪ secondary shippers to provide credit support to transportation service providers to cover their potential liabilities under their OTSA; and ▪ buyers and sellers of capacity to post collateral with AEMO if they sell capacity (with the collateral based on the face value of the trade), which could be drawn upon if the primary capacity holder defaults under its primary facility agreement and payments need to be made to the service provider. <p>Together these prudential arrangements should provide transportation service providers sufficient protection against the risks they could be exposed to in the service continuity period. The GMRG has not therefore recommended any changes to credit support arrangements, or the introduction of a participant compensation fund.</p> <p>In relation to the compensation fund, it is worth noting that the Capacity Trading Platform project team gave some thought to establishing this type of fund, but concluded that the costs of doing so were likely to outweigh the benefits in a voluntary market where the probability of default is relatively low. The GMRG agrees with this conclusion and notes that the risk cited by APA in this context is one that transportation service providers are better placed to manage than secondary shippers (i.e. because the decision to terminate is within their control and they should be able to make a claim for payment under the primary facility agreement).</p>

⁴¹⁵ GMRG, Final recommendations: Capacity Trading Reform Package (Standardisation, capacity trading platform and reporting framework for secondary trades), November 2017, pp. 118-119.

A.4 Feedback on the day-ahead auction

The March 2018 consultation paper asked stakeholders to provide their views on the proposed legal and regulatory framework for the day-ahead auction and the proposed refinements to the following aspects of the design of the auction:

- the rights that may be treated as transitional firm services for the purposes of the auction and the period over which the services should be grandfathered;
- the contract path models to be used in the day-ahead auction; and
- the process for determining the methodology to be used in the calculation of auction quantity limits.

Stakeholders were also asked to provide their views on whether additional transparency measures were required for the day-ahead auction.

An overview of the feedback stakeholders provided on these issues and the GMRG's responses to this feedback, is provided below.

A.4.1 Transitional firm services

In the March 2018 consultation paper, the GMRG proposed limiting the scope of the transitional firm rights to:

- (a) transportation rights used for the transportation of gas by a gas-fired generator to its generation site that in normal operating conditions would be treated as firm once scheduled (e.g. as available and authorised overruns); and
- (b) transportation rights of the nature described in (a) that were acquired under a primary facility agreement entered into on or before 3 January 2018 (or through an option to acquire the right in such an agreement).⁴¹⁶

The GRMG also proposed that the transitional arrangements applying to such rights only apply for a maximum of two years.

Mixed views were expressed by stakeholders about these proposals and, in particular:

- **The availability of transitional firm rights:** AGL, EnergyAustralia, Snowy Hydro, APLNG and APGA, for example, supported the limitation of transitional firm rights to gas-fired generators. Origin, on the other hand, noted that the limitation to gas-fired generators may be difficult to implement from an operational and compliance standpoint and suggested that all as available and authorised overrun rights be treated as transitional firm rights. Jemena was also of the view that the availability of transitional firm rights should extend to all shippers with these rights. In contrast to these stakeholders, ERM and Shell were opposed to the proposal to treat any rights as transitional firm rights and noted that doing so would reduce the quality of the auction product, erode confidence in the market and create an uneven playing field for generators.

⁴¹⁶ The 3 January 2018 date referred to in (b) is the date that the Energy Council formally agreed to the GMRG's recommendations on the design of the auction. The selection of this date was intended to counter the incentive that market participants may otherwise have to try and enter into agreements before the reform package is implemented to try and circumvent the reforms.

- **The term over which transitional firm rights should be grandfathered:** Shell was of the view that if transitional firm services are to be allowed, then the grandfathering period should be limited to 12 months. AGL, Origin and APLNG, on the other hand, agreed with the proposed two year grandfathering period. PWC was of the view that there should be no time limit on the grandfathering period, while Alinta, EnergyAustralia and APGA thought the grandfathering period should be reviewed post implementation and potentially extended.

In addition to this feedback, stakeholders made the following observations about the drafting of the transitional rules that give effect to the transitional firm rights:

- APA, Origin and AGL noted that it was unclear whether transitional firm rights would be available for use on all the transportation facilities generators use in the transportation of gas to their site, or just the facility connected to the generator.
- PWC noted the drafting currently only refers to market generating units that form part of the National Electricity Market (NEM) and so do not capture generators in the NT.
- A stakeholder that provided a confidential submission suggested that the date used for determining whether a generator had the relevant rights in place should be changed from 3 January 2018 to 19 March 2018, because this is when the limitation was first communicated to market participants.

Epic also suggested that rather than requiring transportation service providers to make a decision about whether or not a transportation right should be treated as a transitional firm right, there should be a preliminary process under which the AER makes a determination (at a service provider's request) that a service meets the criteria. Elaborating on this further, Epic noted that if the decision was left to transportation service providers then they would be exposed to the risk of primary shippers and auction participants disputing the service provider's determination. Epic added that if the AER did not make this determination, service providers should be provided time to rectify the situation prospectively prior to any penalties being imposed by the AER.

The GMRG's response to the feedback provided by stakeholders is summarised in the table below.

Table A.7: Response to issues raised about transitional firm rights

Issue	GMRG response
Limitation of transitional firm rights to gas-fired generators	<p>The GMRG has considered the feedback provided by stakeholders on the proposal to allow certain rights used in the transportation of gas to a gas-fired generation site to rank ahead of the auction product.</p> <p>While the GMRG understands the concerns that ERM and Shell have raised about the effect this proposal could have on the auction,⁴¹⁷ it does think some caution needs to be exercised given the conditions currently prevailing in the NEM. The GMRG is therefore of the view that transportation rights held by gas-fired generators under primary facility agreements made on or before 19 March 2018, that are used to transport gas to the generator's site and in normal operating conditions would be treated as firm once scheduled (e.g. certain as available and authorised overrun services), should rank ahead of the auction product for a transitional period.</p> <p>In relation to the concerns that Origin raised about the operational and compliance difficulties that may be associated with limiting transitional firm rights to gas-fired generators, the GMRG is of the view that these concerns can be addressed by:</p>

⁴¹⁷ These rights will rank ahead of the auction product and result in less CBU capacity being released into the auction.

Issue	GMRG response
	<ul style="list-style-type: none"> requiring the AER to oversee the classification of transitional firm services by service providers; and requiring service providers and transitional firm rights holders to keep records of the information the AER would require to monitor compliance with the requirement for the capacity to be used at a gas-fired generation site. <p>The GMRG does not therefore think it is necessary to expand the scope of the transitional firm rights to all as available and authorised overrun rights holders. In this regard, it is worth noting that ranking all as available and authorised overrun rights ahead of the auction product as proposed by both Origin and Jemena would be contrary to the policy intent, which is for the auction service to rank as closely as possible behind firm services so that firm capacity holders have a strong incentive to release any spare capacity they may have prior to the auction. The GMRG remains therefore of the view that the scope of the transitional firm rights should be limited to the rights held by gas-fired generators.</p>
Transitional period	<p>The GMRG has considered the issues raised by stakeholders about the length of the transitional period and while it understands the concerns that Alinta, EnergyAustralia, APGA and PWC have raised, it is of the view that a two year transitional period is sufficient, particularly given the adverse effect the continued recognition of these rights could have on the auction and secondary capacity trading, more generally.</p> <p>As noted in the March 2018 consultation paper, the transition to the new arrangements will require some adjustments to be made to the way in which services are contracted. However, it is important to recognise that shippers will be able to achieve similar levels of flexibility to what they currently have to manage demand risks (e.g. by procuring hourly entitlements and/or imbalance entitlements from service providers or other shippers). It is just the manner in which this is done that will change.</p> <p>The GMRG has also considered Shell's suggestion that the transitional period be limited to one year, however, given the matters that have been raised by Alinta and EnergyAustralia, the GMRG is of the view that a two year period is appropriate.</p>
Process for classifying transitional firm rights	<p>The GMRG understands the concerns that Epic has raised about the process for classifying a service as a transitional firm service and agrees that it would be more appropriate for:</p> <ul style="list-style-type: none"> a transportation service provider's classification to be overseen by the AER and for the AER to have the power to reject or revoke a classification if it is not satisfied the criteria are met; and a transportation service provider to determine on a daily basis whether nominations to use the transitional firm services can be treated as a transitional firm quantity in the auction based on the location to which the gas is being transported. <p>In the GMRG's view, this approach will address the conflicts raised by Epic and will also provide market participants greater confidence in the arrangements and assist the AER when monitoring compliance with this part of the rules. The transitional rules in Schedule 5 have therefore been amended to reflect this process.</p>
Other matters	<p>The GMRG has considered the other matters raised in the Origin, APA, AGL, PWC and confidential submissions and agrees that:</p> <ul style="list-style-type: none"> Transitional firm services should be available on transportation facilities that are used in the transportation of gas to the generation site and not limited to the pipeline that is directly connected to the generation site. The reference to market generating units that form part of the NEM in the transitional rules should be amended to capture generators in the NT. The date used to assess whether a transportation right can be considered a transitional firm right should be changed in the transitional rules from 3 January 2018 to 19 March 2018. <p>These changes are reflected in the transitional rules in Schedule 5 of the NGR.</p>



A.4.2 Contract path models

The March 2018 consultation paper proposed the adoption of the following contract path models for the day-ahead auction:

- A hybrid point-to-point zonal model for forward haul and compression services that enables auction participants to bid on a point-to-point basis for any unused capacity at individual receipt or delivery points, with their ability to secure capacity at those points on pipelines dependent on whether there is sufficient:
 - CBU capacity available in the receipt point zone and delivery point zone they wish to use; and
 - CBU capacity along the segments of the pipeline they need to use.
- A point-to-point model for backhaul services, that enables backhaul services to be:
 - sold on a point-to-point basis between points that AEMO determines should be included in the auction from time to time; and
 - allocated in a static⁴¹⁸ manner against firm net forward haul flows.

Stakeholders provided the following feedback on these contract path models:

- **Contract path model for forward haul and compression services:** The proposal to adopt a hybrid point-to-point zonal model was supported by APA, AGL, APLNG, Origin and Snowy Hydro. The benefits of the hybrid model that were cited by these stakeholders were that it would provide for the most efficient allocation of capacity (Snowy Hydro) and would result in a consistent model being employed on the capacity trading platform and auction (AGL). In contrast to these stakeholders, Jemena thought the hybrid model was “overly complex”, while PWC noted that under this model uncontracted capacity at individual receipt and delivery points would be released.⁴¹⁹
- **Contract path model for backhaul services:** The feedback that stakeholders provided on backhaul services centred on whether:
 - Backhaul services should be included in the auction, with AGL, APGA, Palisade and Jemena reiterating the concerns they have raised in prior consultation processes about the proposal to include backhaul services in the auction.
 - AEMO should be responsible for determining the backhaul services included in the auction, with AGL noting that if backhaul is to be included in the auction then AEMO should determine the backhaul services and APLNG and PWC also supporting this proposal. APLNG did, however, note that determinations by AEMO should be informed by consultation with shippers, while PWC noted that such determinations should reflect commercial and regulatory arrangements.

The GMRG’s responses to this feedback are summarised in the table below.

⁴¹⁸ The term ‘static’ is used in this context because any additional forward haul flows generated by the auction will not be allocated to the backhaul auction service.

⁴¹⁹ PWC also raised some concerns about how the hybrid model would apply on the Amadeus Gas Pipeline, which operates on more of an entry-exit basis than a contract path basis.

Table A.8: Response to issues raised about the contract path models

Issue	GMRG response
Contract path model for forward haul and compression services	<p>The GMRG has considered the feedback provided by stakeholders on the proposed use of the hybrid model for forward haul and compression services and agrees with APA, AGL, APLNG, Origin and Snowy Hydro that this is the most appropriate model to use in this context. As a number of stakeholders pointed out, the main benefits of the hybrid model are that:</p> <ul style="list-style-type: none"> ▪ it yields a more efficient allocation of capacity than the pure point-to-point model, because in a similar manner to the capacity trading platform model, it allows CBU capacity from individual points to be moved to other points within the zone if there is unused capacity at those points and sufficient pipeline segment CBU capacity; and ▪ it overcomes the delivery risk associated with the pure zonal model, because when a shipper wins capacity it knows it has secured capacity at the points it requires. <p>The hybrid model is therefore more consistent with the objective of the capacity trading reforms, the NGO and the Energy Council's Vision of the direction that gas market development should take to meet the NGO than the pure point-to-point and pure zonal models. This contract path model is reflected in Part 25 of the NGR.</p>
Contract path model for backhaul services	<p>The issue of whether backhaul services should be included in the auction was subject to extensive consultation in 2017, which culminated in the GMRG recommending that backhaul services should be in the auction. In doing so, the GMRG noted that the inclusion of these services in the auction was consistent with the objective of the capacity trading reforms, the NGO and the Energy Council's Vision and would:</p> <ul style="list-style-type: none"> ▪ result in a range of efficiency gains across the gas supply chain, because it will improve the efficiency with which capacity on single directional pipelines is allocated and used; and ▪ provide shippers with more flexibility to procure and deliver gas. <p>The concerns that APGA, Palisade, Jemena and AGL have raised about the inclusion of backhaul services in the auction are not new and while the GMRG has considered them closely, it remains of the view that backhaul services should be included in the auction on single direction pipelines (or parts of bidirectional pipelines that are single direction). The GMRG has not therefore recommended any changes to this element of the auction design.</p> <p>In relation to the contract path model, the GMRG is of the view that a point-to-point model should be used for backhaul services, which will provide for backhaul capacity to be:</p> <ul style="list-style-type: none"> ▪ sold on a point-to-point basis between backhaul points that AEMO determines should be included in the auction from time to time; and ▪ allocated in a static manner against firm net forward haul flows. <p>This contract path model is reflected in Part 25 of the NGR.</p> <p>When determining which backhaul points should be included in the auction, the GMRG remains of the view that AEMO should be responsible for determining these points, but agrees with APLNG that AEMO should consult with interested parties when identifying these points. Provision has been made in Part 24 of the NGR for this to occur.</p>

A.4.3 Process for determining the auction quantity limits methodology

The March 2018 consultation paper sought stakeholder feedback on the proposal for the CT&A Procedures to set out:

- the methodology to be used to calculate the auction quantity limits, which will be required to give effect to the auction quantity limit principles specified in the NGR; and
- the information that auction facility operators will be required to provide to AEMO each day to enable the auction quantity limits to be calculated each day.

The responses received from stakeholders can be summarised as follows:



- **Inclusion of the methodology in the CT&A Procedures:** The proposal to include the auction quantity limits methodology in the CT&A Procedures was supported by the six stakeholders that responded to this question (AGL, Origin, PWC, Shell, APLNG and Jemena). Jemena did, however, note that its endorsement of this approach was conditional upon service providers (as opposed to AEMO) being responsible for the calculation of the auction quantity limits, which it noted was not reflected in the current drafting of the rules.
- **Principles to guide the development of the methodology:** In addition to the principles already specified in the draft rules:
 - Shell thought the principles should require the maximum level of capacity to be made available in the auction.
 - Origin thought the principles should provide for shippers to retain access to capacity allocated to their market operator service (MOS) bids.
 - PWC thought the principles should require the calculation of auction quantity limits in accordance with “established commercial and regulatory arrangements”.
 - Epic thought the principles should recognise the need for transportation service providers to be able to safely and reliably operate the pipeline and noted the current definition of operational capacity may not achieve this.
 - Jemena thought the principles should require consideration to be given to: the impact of the zones on the total available capacity for auction; shippers’ rights and service providers’ obligations under existing GTAs; the likely impact on the service provider’s legitimate business interests and the interests all persons who have rights to use the pipeline; and the operational and technical requirements necessary for the safe and reliable operation of the pipeline.

The GMRG’s response to each of these issues is summarised in the table below.

Table A.9: Response to issues raised about the auction quantity methodology

Issues	GMRG response
Inclusion of methodology in procedures	The GMRG agrees with stakeholders that the methodology used to calculate auction quantity limits should be specified in the CT&A Procedures. The GMRG has also considered the concerns raised by Jemena about who is responsible for calculating the auction quantity limits and has amended the drafting of the NGR to make it clearer that transportation service providers will be responsible for calculating these limits and the facility's operational capacity. This change should also address the concerns that Epic raised about the need for transportation service providers to be able to safely and reliably operate the pipeline.
Principles to guide the development of the auction quantity limits	<p>The GMRG has considered the additional principles proposed by stakeholders, but is of the view that the proposed principles are either:</p> <ul style="list-style-type: none"> already reflected in the current principles (or elsewhere in the NGR), for example: <ul style="list-style-type: none"> the requirement for all CBU capacity to be released in the auction, subject to operational constraints, will maximise the level of capacity available in the auction; the recognition that auction quantity limits will be capped by the operational capacity, which transportation service providers will be responsible for determining, will provide for the safe and reliable operation of the pipeline; and shippers' rights and service provider obligations under existing GTAs are already dealt with through the auction priority principles and immunity provisions; or not required because they are not relevant to the calculation of auction quantity limits, for example: <ul style="list-style-type: none"> the specification of zones will not alter the CBU capacity that can be released in the auction; and the legitimate interests of transportation service providers and the interests of all persons that have rights to use the pipeline have already been taken into account in the design of the day-ahead auction and are not directly related to the calculation of auction quantity limits. <p>In relation to the concerns Origin has raised about MOS, it is worth noting that MOS is allocated by service providers to MOS providers after the gas day in accordance with the relevant MOS bid stack. A participant that submits a MOS bid must have the ability to supply or absorb an imbalance at the STTM hub in accordance with that bid. The NGR do not prescribe the type of service that is required to provide MOS bids to the STTM. Service providers and STTM shippers are therefore free to negotiate which services are used to provide MOS and we understand that a variety of services are used to provide MOS to STTM hubs, including imbalance accounts and park and loan services.</p> <p>As outlined in the final recommendations on the design of the day-ahead auction, the capacity released through the day-ahead auction does not affect the capacity associated with imbalance allowances or park and loan services. So if a firm shipper nominates after the gas day to manage an allocation of MOS (for example, to replenish their imbalance or park and loan account used to provide balancing) that capacity would not be released into the auction for that gas day. No amendments to the auction quantity limits in the NGR are therefore required to deal with MOS.</p>

A.4.4 Additional transparency measures

The March 2018 consultation paper asked stakeholders for their views on whether the following additional transparency measures were required:

- Reporting of intra-day curtailments of auctioned services by auction facility operators:** Mixed views were expressed on the value of reporting intra-day curtailments of auction services, with APA, Jemena and Palisade raising concerns about the costs associated with this reporting obligation. AGL, Alinta, ERM and APLNG, on the other hand, supported the publication of this information on the Bulletin Board as soon as reasonably practicable after the curtailment occurs. Elaborating further on the rationale for publishing this information on the Bulletin Board, a number of shippers noted that the curtailment of auctioned capacity could affect prices,

commercial and operational decisions across multiple markets and should therefore be made public. A number of shippers also noted that greater transparency in this area would provide participants greater confidence in the auction market.

- **Reporting of transitional firm rights:** Mixed views were also expressed about reporting the amount of transitional firm rights scheduled ahead of the day-ahead auction, with AGL, ERM, APLNG and Shell noting that the information should be reported on the Bulletin Board. PWC and APA, on the other hand, did not think this was necessary, while Epic and Jemena thought this could be commercially sensitive information. AGL suggested that the commercial sensitivity of this information could be addressed by requiring the information to be aggregated and de-identified. AGL also noted that the information should be published ahead of the auction, rather than after the auction, which ERM agreed with. ERM also suggested that information on the quantum and duration of transitional firm rights should be published so that market participants can understand and assess the risks on each facility.

The GMRG's responses to each of these issues are summarised in the table below.

Table A.10: Response to issues raised about auction transparency measures

Issue	GMRG response
Intra-day curtailments of auctioned capacity	<p>The GMRG agrees with AGL, Alinta, ERM and APLNG that information on intra-day curtailments of auctioned capacity should be reported on the Bulletin Board given the effect it could have on the gas and electricity markets. To minimise the costs associated with this additional reporting obligation, transportation service providers will be required to provide the following information to AEMO for publication on the Bulletin Board:</p> <ul style="list-style-type: none"> a. a notice of the curtailment and the auction service affected; b. a brief description of the cause of the curtailment; and c. whether the curtailed quantity is material or not (material is defined in this context as more than 10% of the transportation capacity sold in the auction). <p>Transportation service providers will also be required update the information in (b) or (c) if additional curtailment occurs after the initial notice is provided. On the following gas day, service providers will be required to report to AEMO for publication on the Bulletin Board the total amount of auctioned capacity that was curtailed on the gas day.</p> <p>These requirements are reflected in the amendments to Part 18 of the NGR.</p>
Reporting of transitional firm rights	<p>The GMRG has considered the issues raised by shippers about the need for additional information to be reported on the use of transitional firm services and the concerns that some service providers and shippers have raised about the confidentiality of this information. While the GMRG agrees that information on the use of these services should be published, it is concerned that the publication of this information ahead of the gas day could provide an indication of a gas-fired generators intended use on the next gas day, particularly if there are less than two generators connected to the transportation facility. The rules in Part 25 of the NGR have therefore been amended to require:</p> <ul style="list-style-type: none"> ▪ transportation service providers to report the amount of aggregated transitional firm services that have been taken into account in the calculation of the auction quantity limits for forward haul and backhaul to AEMO when submitting their auction quantity limits; and ▪ AEMO to publish the information on the aggregated volume of transitional firm services that were taken into account in the calculation of the auction quantity limits on the Bulletin Board on the day after the gas day (D+1). <p>These requirements are reflected in the transitional rules in Schedule 5 of the NGR.</p> <p>While information on the use of transitional firm services will not be known prior to the auction, auction participants will be able to have recourse to historic information on the use of these services when deciding whether or not to participate in the auction and when assessing the risks potentially posed by transitional firm services.</p>

A.5 Feedback on the secondary capacity reporting framework and other transparency measures

The March 2018 consultation paper sought stakeholder feedback on the proposal to expand the scope of the reporting obligations for allocation agents to include a description of the allocation methodology used at the allocation point and a description of the process and charges for joining and leaving the allocation arrangement.

Stakeholders were generally supportive of this proposal. ERM, for example, noted that it “supports the proposal to require information about allocation arrangements to be published so as to provide more transparency and reduce barriers to entry”. ERM went on to add that this obligation should also apply to injection and withdrawal points in the DTS. A number of service providers noted that while they were comfortable with the proposed information being reported, there were some locations where there was no written agreement in place, so consideration would need to be given to how to accommodate these situations.⁴²⁰

The GMRG’s response to these two issues is summarised in the table below.

Table A.11: Response to issues raised about the secondary capacity reporting framework and other transparency measures

Stakeholder concern	GMRG response
Inclusion of the allocation arrangements for the Victorian DTS	The GMRG agrees with ERM that the requirement to report on allocation arrangements should extend to system injection and system withdrawal points in the DTS (excluding points at which the allocations are determined under Retail Market Procedures). In a similar manner to the allocation arrangements on contract carriage pipelines, the allocation arrangements at these points may act as a barrier to capacity trading (particularly at points of interconnection with contract carriage pipelines). The relevant provisions in the NGR have been amended accordingly.
Information to be reported in the absence of a written allocation agreement	In the GMRG’s view the same information about allocation arrangements should be reported on the Bulletin Board irrespective of whether they are set out in a formalised written agreement or not. To not do so would pose a potential barrier to accessing points where an informal approach is in place. The drafting of these provisions in the NGR have therefore been amended to clarify that the same information is to be reported for both types of arrangements.

A.6 Feedback on the standard market timetable

The March 2018 consultation paper asked stakeholders to provide feedback on the transitional arrangements for the implementation of the standard market timetable. The feedback stakeholders provided can be summarised as follows:

- **Trigger of change in law provisions in contracts:** APA and Jemena were concerned that the proposed amendments to the NGL and NGR would not be sufficient to trigger the change in law provisions in facility agreements and enable the standard market timetable to be readily implemented. Elaborating on this further, APA

⁴²⁰ The GMRG understands that if a written allocation agreement is not in place, the interconnect party (i.e. producer or end-user) will usually determine the allocation method or perform the allocations and/or all parties default to a standard rule (e.g. pro-rating or service priority).

and Jemena noted that their existing change in law provisions do not enable changes to terms and conditions to be automatically made. Rather, their change in law provisions trigger the need to negotiate amendments to each contract.

- **Flow on to downstream contracts:** PWC expressed some concerns about a retailer's ability to amend downstream contracts to require changes to the gas day start time and nomination cut-off time.
- **Coordination and management of the transition:** Jemena suggested that AEMO play a greater role in coordinating and managing the transition to the standard market timetable and that it be required to consult with the market to develop an industry agreed project plan and timetable by 1 April 2019.

The GMRG's response to each of these issues is summarised in the table below.

Table A.12: Response to issues raised on gas day harmonisation

Stakeholder concern	GMRG response
Trigger change of law provisions in existing contracts	<p>The GMRG has considered the concerns raised by APA and Jemena about the change of law provisions in existing agreements. To address these concerns the following amendments have been made to the NGL and NGR:</p> <ul style="list-style-type: none"> ▪ The transitional provisions in the NGL have been amended to provide a person required to implement the standard market timetable an immunity from liability for giving effect to the standard market timetable under contracts entered into prior to harmonisation. ▪ The transitional provisions in the NGR have been amended to: <ul style="list-style-type: none"> – Require parties to a contract entered into prior to the commencement of Part 26 that uses a different gas day or nomination cut-off time to negotiate in good faith the amendments requirement to give effect to the standard market timetable; and – Allow parties to refer any dispute or disagreement about the amendments for determination by an expert or by other alternative dispute resolution mechanism agreed by the parties.
Ability to amend contracts with downstream customers	<p>To address the concerns raised by PWC, the amendments to the transitional provisions in the NGR apply to any contract entered into prior to the commencement of Part 26 that relates to:</p> <ul style="list-style-type: none"> ▪ the provision of a service provided by a Part 26 facility; and ▪ the supply of gas to a connected facility. <p>The inclusion of this latter limb is intended to capture downstream agreements.</p>
Coordination between interconnected facilities and AEMO	<p>While the GMRG appreciates some of the concerns that Jemena has raised about the coordination and management of the transition to the standard market timetable, in its view affected parties should be incentivised to work together and coordinate their activities to make the required changes in line with the information AEMO publishes regarding the transition of the gas markets.</p> <p>The GMRG is therefore satisfied that the concerns raised by Jemena can be adequately dealt with by requiring:</p> <ul style="list-style-type: none"> ▪ AEMO to publish information about the transition of each facilitated gas market by 1 April 2019 and to consult with interested parties before doing so. ▪ facility operators to publish information on the transition prior to 30 June 2019 (noting that this information can be updated if required). <p>While Jemena has suggested that AEMO should determine the cut-off date for the publication of information by facility operators, the GMRG is of the view that this date should be specified in the NGR to provide affected parties with greater certainty about the arrangements.</p>

A.7 Other feedback

In addition to the feedback outlined above, stakeholders made the following observations about the capacity trading reform package:

- **Governance arrangements:**
 - **AER's compliance monitoring role:** Various stakeholders highlighted the significant role that the AER will have in monitoring the compliance of market participants and transportation service providers with the reforms, and noted the need for the AER to be adequately resourced to perform this role.
 - **AEMO's role:** A number of service providers raised concerns around the breadth of AEMO's powers under the reform package and the decision to leave some of the detail of the reforms to be dealt with through procedures rather than the NGR.
- **Implementation approach:** A number of service providers and stakeholders claimed there were risks associated with implementing both the capacity trading platform and day-ahead auction on 1 March 2019 and suggested that a staged approach be adopted.
- **Post-implementation review:** A number of stakeholders noted the importance of conducting a post-implementation review to assess the effectiveness of the reforms and whether any further refinements to the reform package are required. A number also noted the importance of considering whether the benefits of the reforms have been passed on to consumers.
- **Contractual requirements:** One stakeholder noted the potential for all the contractual arrangements that shippers must enter into to use the capacity trading platform and the auction to act as a barrier to trade for some shippers. This stakeholder therefore suggested that the agreements and processes for entry into those agreements be as simple and user-friendly as possible.

The GMRG's responses to these issues is summarised in the table below.

Table A.13: GMRG's response to other feedback

Stakeholder concern		GMRG response
Governance arrangements	AER's role	The GMRG agrees with stakeholders that the AER has a vital role in monitoring compliance with the reforms and that it should be adequately resourced to do so. To this end, the GMRG has worked closely with the AER to ensure that it has sufficient powers to monitor compliance and has also recommended to the Energy Council that the AER be adequately resourced to undertake its new functions under the reform package.
	AEMO's powers	The GMRG has considered the concerns raised by service providers about the breadth of AEMO's powers, however, as operator of the exchange and day-ahead auction, it is important that AEMO have the powers required to perform these roles. In the GMRG's view the appropriate balance has been struck in this regard. The GMRG is also of the view that the appropriate balance has been struck in relation to the matters that are dealt with in the NGL, the NGR, the Regulations and the

		<p>AEMO-made procedures. While some concerns have been raised about the number of matters to be dealt with in procedures, the GMRG notes that:</p> <ul style="list-style-type: none"> the matters to be dealt with in the procedures are too detailed for inclusion in the NGR; when developing the CT&A Procedures AEMO will be required to have regard to the principles set out in the NGR, which will place some constraints on the matters dealt with in the procedures; and AEMO will be required to consult with stakeholders when developing the procedures.
Implementation approach		<p>On 24 November 2017, the Energy Council agreed that the capacity trading platform and day-ahead auction should commence on 1 March 2019. The GMRG has progressed the implementation of the reforms on this basis and significant work has been undertaken to ensure that market bodies and participants are prepared when the reforms take effect.</p> <p>The GMRG understands that significant effort from industry is still required to implement the reforms, but is of the view that there is sufficient time to do so. The GMRG does not therefore consider it necessary to adopt a staged approach to implementation.</p>
Post-implementation review		<p>The GMRG notes that SCO is expected to undertake a post-implementation review of the capacity trading reforms two years following implementation (expected to be in 2021). As part of this process, SCO is expected to assess whether the reforms are working as intended or if further reforms or refinements are required. This review will be informed by the AEMC's second biennial review into the growth in liquidity in wholesale gas and pipeline trading markets due to be completed in mid-2020.</p>
Contractual requirements		<p>The GMRG understands that putting in place the contractual arrangements required to use the capacity trading platform and auction will require some effort on the part of shippers. Where possible, the GMRG has sought to make the process for entering into these agreements as simple as possible. In this regard, it is worth noting that:</p> <ul style="list-style-type: none"> a number of the agreements shippers will need to enter into will be standard-form agreements (i.e. the Exchange Agreement, auction agreement and OTSAs); and shippers will only be required to execute the agreements relevant to trading operational transportation services that they require (for example, shippers not wishing to participate in the auction will not need to execute the auction agreement).

A.8 Feedback on the proposed drafting of the legal and regulatory instruments

The tables on the following pages provide a summary of the feedback stakeholders provided on the proposed drafting of the NGL, NGR, Regulations and Code and the GMRG's responses to this feedback.

Note that there have been some changes to the numbering of provisions in the NGL, NGR, Regulations and Code between the draft that was published in March 2018 and the final that was approved by the Energy Council. The section, rule and clause numbers in the tables on the following pages may therefore differ from those appearing in the final package.

Table A.14: Exemptions and registration: Feedback on the NGL, Regulations and NGR

Provision	Stakeholder concern	GMRG response
NGL		
s. 2(1)	APA was of the view that the definition of 'compression service facility' in this section of the NGL was ambiguous and could inadvertently include mid-line compression.	A number of amendments have been made to the definition of the term 'compression service facility' in the NGL and Part 24 of the NGR to make it clear that the reforms apply to stand-alone compressors (i.e. a compression facility that is or may be used to facilitate the flow of gas between transmission pipelines) and not mid-line compression facilities.
s. 8(3)	GLNG and APA noted that it was unclear when AEMO would be required to control or operate a compression service facility and therefore questioned the inclusion of this provision.	The GMRG agrees that the inclusion of this provision, which mirrors a similar provision that applies to transmission pipelines, is unnecessary. It has therefore been removed from the NGL.
s. 91H	GLNG and APLNG were concerned that the amendments to the definition of 'Registered participant' in s. 91H of the NGL would allow AEMO to charge fees to an 'exempted participant'. APA also questioned whether the term 'exempted participant' included a transportation service provider that obtains an exemption under s. 91BRS.	The GMRG has considered the concerns raised by GLNG and APLNG, but it is of the view that AEMO will require some flexibility to recover the costs associated with the capacity trading reforms. The definition of Registered participant in s. 91H of the NGL therefore still refers to exempted participants. In relation to APA's question, this section of the NGL has been amended to make it clear that the term 'Registered participant' only includes transportation service providers registered with AEMO under s. 91BRS.
Part 24 of the NGR		
r. 611	APA was concerned that the requirement in r. 611 for the AER to consider whether the grant of an exemption will hinder access to operational transportation services on any other part of a transportation facility accorded the AER too much discretion and should be deleted.	While the GMRG understands APA's preference for fact based exemptions, there are some circumstances where it considers that some discretion to grant or revoke an exemption is required and that the requirement to consider whether the granting of an exemption would hinder access is one such circumstance. This rule has not therefore been amended.
rr. 618 to 619	APA suggested that the registration process could be streamlined by having just one register that covers Part 24 facilities.	The requirement for non-exempt transportation service providers to register their transportation facility and as the facility operator in Part 24 of the NGR mirrors the approach used in Part 18 of the NGR. This approach has therefore been maintained in rules 618-619 of the NGR.
r. 621	APA questioned the value of requiring an outgoing service provider to notify AEMO of a change of facility operator, if the new transportation service provider also has an obligation to register.	The requirement for outgoing service providers to notify AEMO that they are no longer the facility operator mirrors the requirement in Part 18 of the NGR and is appropriate in the GMRG's view, because it will ensure that AEMO's register of Part 24 facilities remains accurate.

Table A.15: Measures to facilitate capacity trade and the auction: Feedback on the NGL, NGR, Regulations and Code

Provision	Stakeholder concern	GMRG response
NGL		
s. 2(1)	A number of service providers were concerned about the breadth of the definition of 'transaction support arrangements' in the NGL and were of the view that it should be more clearly defined given the power AEMO will have to develop procedures relating to these arrangements.	The term 'transaction support arrangements' is defined in the NGL as "arrangements to facilitate transactions with respect to transportation capacity and related goods and services concluded or to be concluded through a gas trading exchange or a capacity auction". While some service providers have expressed concern about this definition, in the GMRG's view it has to be expressed in relatively broad terms in the NGL so as not to unduly limit the AEMC's and the Minister's rule-making powers. While this definition is expressed broadly in the NGL, rule 135EA, which sets out the matters which can be dealt with in the CT&A Procedures, does narrow the scope of what AEMO can make procedures about. In the GMRG's view, the appropriate balance has been struck between the NGL and the NGR. No amendments have therefore been made to this section of the NGL.
	APA raised concerns about the use of the term 'standard operational agreement' in the definitions and claimed the definition was too broad and could refer to matters beyond operational transportation services.	To address APA's concerns, the term 'standard operational agreement' has been replaced with the term 'standard OTSA' to make it clear that it only refers to standard operational transportation services.
Part 24 of the NGR		
r. 593	APA was concerned that the obligation to maintain equipment in r. 593(4) could be interpreted as requiring transportation service providers to keep meters and infrastructure commissioned, even if there isn't a user at a point.	To address APA's concerns, r. 593(4) has been amended to remove any reference to a requirement to maintain equipment.
r. 595	APA was of the view that the Code objective should be the NGO and claimed that having several sub-objectives in the NGR is confusing and makes enforcement difficult.	The GMRG disagrees with APA that having sub-objectives in the NGR is confusing and makes enforcement difficult. In the GMRG's view the Code objective is consistent with the NGO and will provide the Panel and the AER greater guidance when considering proposed amendments to the Code. No amendments have therefore been made to this provision.
r. 597	APA noted that the ability to provide operational capacity at a service point may be affected by firm backhaul services and firm park services that include a firm transportation component and suggested this be reflected in r. 597. Origin also noted that under some primary facility agreements, capacity nominations and renominations can either be made by a shipper or be deemed to have been provided. Origin queried whether the current wording allowed for this deeming.	The GMRG agrees with APA's comments regarding park and backhaul services. Rule 597 has been amended accordingly. To address Origin's concerns, the definition of nomination and renomination in Parts 24 and 25 have been amended to include deemed or default nominations and renominations.
r. 599	APA noted that the proposal to require AEMO to develop the operating manual and election procedures for the Panel could accord it too much discretion.	In the GMRG's view, AEMO, as chair of the Panel, is the appropriate body to develop the operating manual and election procedures. The GMRG does, however, consider that when developing these instruments, AEMO should be required to consult with stakeholders. Rule 599 has therefore been amended to require AEMO to consult in accordance with the standard consultative procedure before making or amending the election procedures and operating manual.

Provision	Stakeholder concern	GMRG response
r. 601	APA was of the view that this rule, which allows AEMO to reject Code amendment proposals without referring them to the Panel if it reasonably considers a proposal is misconceived or lacking in substance, accord AEMO too much power.	While the GMRG has considered APA's concerns, it does not consider that this provision accords AEMO unduly broad powers, because this power can only be exercised by AEMO if it considers a proposal is misconceived or lacking in substance <i>acting reasonably</i> . It is also worth noting that this power was accorded to AEMO to try and prevent the Panel from having to assemble unnecessarily (and incurring associated costs). No changes have therefore been made to this rule.
r. 602	APA suggested that further clarity should be provided in r. 602 as to when a proposal may not be subject to consultation.	In the GMRG's view, the drafting of r. 602(3), which is modelled on the rule that provides for procedures to be expedited, provides sufficient clarity around when the Panel may be relieved of its obligation to consult on proposed amendments to the Code (i.e. when the modification is urgent or non-material). No changes have therefore been made to this rule.
r. 605	APA was of the view that the AER should be required to consider service providers' legitimate business interests when assessing a Code amendment. Palisade also suggested that the AER be required to consider more principles that protect service providers when considering amendments to the Code.	The GMRG has considered the issues raised by APA and Palisade, but does not consider any amendments to this rule are required to elevate the interests of service providers above those of shippers. As noted in rule 595, the objective of the Code is to provide for access on reasonable terms, which is taken to mean at prices and on other terms and conditions that, so far as practical, reflect the outcomes of a workably competitive market. In the GMRG's view, elevating service providers' interests above shippers' interests would be at odds with this objective, which is why r. 605 only states that the AER <i>may</i> have regard to the legitimate business interests of service providers when deciding whether to make an amendment to the Code, rather than 'must'. This is akin to the requirements in Part 23 of the NGR and, in the GMRG's view, is appropriate in this context.
	APA also noted that if a service provider is required to publish a new OTSA following a Code amendment decision, then if the change relates to facility specific terms, service providers may require more than 20 business days to make the change.	To address APA's, the period to amend standard OTSAs has been extended from 20 business days to 30 business days.
r. 627	GLNG and APLNG suggested that r. 627 be clarified to make it clearer that AEMO must consult with shippers when defining zones.	To address GLNG and APLNG's concerns, r. 627 has been amended to expressly require AEMO to consult before allocating pipeline services points and compression services points to zones or determining the specification of pipeline segments.
	APA raised some concerns with the expedited process for consultations on zones and stated that: <ul style="list-style-type: none"> ▪ AEMO should not design the expedited process and then determine when it should apply; and ▪ in determining whether to apply the expedited process, in addition to considering the impacts the matter may have on shippers, AEMO should consider whether the matter may have any adverse impacts on service providers. 	To address the concerns raised by APA, r. 627 has been amended to state that an expedited process for consultation can only be employed where the matter is of a minor or administrative matter.

Provision	Stakeholder concern	GMRG response
r. 628	<p>The following views were expressed about the principles for determining zones:</p> <ul style="list-style-type: none"> ▪ The ECA was of the view that the requirement for AEMO to consider whether grouping two or more points in a zone would be “reasonably likely to promote efficient trade in and use of transportation capacity” should be removed because it set too high a hurdle for grouping service points in a zone. ▪ APA was of the view that the list of principles AEMO must have regard to did not have adequately capture the technical and operational features of a facility. 	<p>To address the ECA's and APA's concerns, r. 628 has been amended to remove the requirement for AEMO to consider whether the grouping of service points would be “reasonably likely to promote efficient trade in and use of transportation capacity” and to require AEMO to consider any technical or operational characteristics of the relevant facility when making its decision.</p>
r. 629	<p>APA raised some concerns about the potential for this rule to require transportation service providers to provide modelling or historical data for every zone.</p>	<p>Following the release of the draft rules, r. 629(2) has been amended to remove the obligation for AEMO to publish modelling or historical data on the ability to transfer capacity between service points. The rule now requires the CT&A Procedures to provide for a facility operator to provide AEMO with information relating to the curtailment of transportation capacity released for transfer from one service point in a zone for use at another point in the zone. This is expected to be based on factual data that will be collected on a regular basis rather than modelling.</p>
r. 631	<p>APA was of the view that the obligation to notify the AER when publishing or amending a standard OTSA was not strictly required to operate the capacity trading and auction platform.</p>	<p>In contrast to APA, the GMRG thinks there is value from a compliance perspective in requiring transportation service providers to notify the AER when they publish or amend a standard OTSA. In the GMRG's view, the prompt notification of these circumstances will assist the AER in monitoring service providers' compliance with their obligations concerning standard OTSAs. No amendments have therefore been made to this requirement.</p>
r. 633	<p>APA noted that it was unclear why old versions of standard OTSAs had to be maintained for three years and also stated that this could confuse shippers and lead to unnecessary requests for terms that are no longer available.</p>	<p>To address the concerns raised by APA, the obligation to publish old standard OTSAs for up to three years has been amended. This rule now states that if a transportation service provider publishes a new version of a standard OTSA it must at the same time publish a version that shows the amendments made to the old version and continue to publish the old version until the new version is replaced.</p>
r. 634	<p>APA noted that the standardisation costs that service providers should be able to recover should include costs of compliance with Part 25. APA also raised some concerns about the requirement for charges to reflect the outcome of a workably competitive market and noted that the costs they seek to charge will be incurred in fulfilling a regulatory requirement and are not related to any benchmark arising from a competitive market.</p>	<p>The GMRG agrees with APA that the standardisation costs should include the costs of complying with Part 25. Rule 634 has been amended accordingly.</p> <p>The GMRG does not, however, agree with the position that APA has taken on standardisation charges and remains of the view that when setting the charges used to recover standardisation costs, the charges should, insofar as practicable, reflect the outcomes of a workably competitive market.</p>



Provision	Stakeholder concern	GMRG response
r. 635	APA was concerned about the time that facility operators would have to prepare a compliant standard OTSA if required to do so by the AER and suggested that the term be extended from 10 business days to 20 business days.	To address APA's concerns, the period in r. 635 has been extended from 10 business days to 20 business days.
r. 636	APA raised some concerns about the potential for an OTSA to be considered a service offering under Part 23 of the NGR, and therefore subject to the offer timing and related requirements in Parts 23 and Part 24 of the NGR.	The concerns raised by APA about the application of Part 23 were dealt with in the original drafting through the inclusion of r. 594, which expressly states that an access dispute about the terms and conditions of a standard OTSA is excluded from the operation of Part 23 of the NGR. In the GMRG's view, this is sufficient to deal with the concerns raised by APA. No further amendments have therefore been made to this rule.
	GLNG noted that rr. 636 to 640 imposed obligations on transportation service providers rather than on Part 24 facility operators and noted that this could result in obligations being imposed on exempt facilities.	The GMRG has considered the concerns raised by GLNG and while it agrees that the original drafting of rr. 636 to 640 was confusing, a number of these obligations are intended to apply to both conditionally exempt facilities and Part 24 facilities. The obligations, for example, to give effect to bilateral trades and to amend facility agreements are intended to apply to conditionally exempt facilities as well as Part 24 facilities. To make this clearer, rr. 636 to 640 have been amended to clarify whether they apply to Part 24 facilities only or to Part 24 facilities and conditionally exempt facilities.
r. 637	APA was concerned that the reference in r. 637(1) to transportation service providers having 5 business days to prepare and offer to enter into a standard OTSA with a prospective shipper would not be sufficient.	To address APA's concerns, the time period in this rule has been extended to the longer of 20 business days and any period agreed with the relevant prospective secondary shipper to offer a standard OTSA to that shipper.
	<p>APA was of the view that the list of reasons in r. 637(4) for a transportation service provider to decline to make an offer to enter into a standard OTSA should be extended to include the following situations:</p> <ul style="list-style-type: none"> ▪ a contract previously entered into between the parties was terminated for breach; and ▪ the prospective secondary shipper had exhausted a liability cap under a contract with the transportation service provider. 	<p>To address the first of APA's concerns, r. 637(4)(c) has been extended so that it applies to all facility agreements not just OTSAs. To address the second concern, r. 637(4)(d) has been amended to allow transportation service providers to decline to offer a prospective secondary shipper a standard OTSA where:</p> <ul style="list-style-type: none"> ▪ the facility operator and the person making the request are parties to a facility agreement under which a liability cap in favour of the shipper has been reached or exceeded; and ▪ the shipper has failed to discharge its liability up to that cap. <p>However, as liability caps are 'reset' upon entering into a new standard OTSA, the GMRG has not amended the rules to give service providers a broad right to decline to offer OTSAs where the secondary shipper has exhausted a liability cap under a previous agreement with the service provider.</p>
	APA was of the view that when considering whether to reverse a transportation service provider's decision to decline to make an offer, the	To address APA's concerns, r. 637(6) has been amended to require the AER to consult with the relevant transportation service provider before making a decision



Provision	Stakeholder concern	GMRG response
	AER should be required to discuss the matter with the transportation service provider.	to reverse a transportation service provider's decision not to offer a standard OTSA.
r. 643	APA was of the view that a shipper's right to add pipeline service points must be subject to technical and commercial considerations. APA also queried whether it is appropriate for shippers that have received prudent discounts to be able to exercise rights to add service points.	In the GMRG's view, no amendments are required to r. 643, because this rule already provides for consideration to be given to the operational, technical and commercial considerations (see for example, rr. 643(5)(a), (5)(b) and (8)(c)). In the GMRG's view, these considerations should also address APA's concerns regarding prudent discounts.
Regulations – Civil penalty and conduct provisions		
r. 631	Jemena was concerned that there classifying r. 631(1) and r. 631(2) as a civil penalty would result in a double up of civil penalties.	To address the concerns raised by Jemena, the regulations have been amended to classify the obligation in s. 228B of NGL to publish a standard OTSA that complies with the NGR and the Code as a civil penalty and conduct provision rather than individual rules.
r. 632(2)	APA was of the view that this provision should not be classified as a civil penalty and conduct provision because it believes the obligation is subjective.	The GMRG disagrees with APA's view that the requirement for standard OTSAs to comply with the Code and NGR is subjective and should not therefore be classified as a civil penalty or conduct provision. In the GMRG's view, the requirement for standard OTSAs to comply with these requirements is critical to the success of the reform package. It remains therefore of the view that this requirement should be classified as a civil penalty and conduct provision. Rather than requiring this through the NGR, the regulations have been amended to classify the obligation in s. 228B of the NGL to publish a standard OTSA that complies with the NGR and the Code as a civil penalty and conduct provision.
r. 632(3)	Jemena was concerned that classifying this provision and r. 634 as a civil penalty would result in a double up of civil penalties.	To address the concerns raised by Jemena, r. 632(3) is no longer classified as a civil penalty provision.
r. 634(2)-(7)	APA and Palisade were of the view that a number of provisions in r. 634 should not be classified as civil penalty and conduct provisions because they believe they are subjective.	The GMRG disagrees with APA and Palisade's view that the cost recovery principles in r. 634 are subjective and should not therefore be classified as a civil penalty or conduct provision. Some refinements to the regulations have nevertheless been made to clarify those principles that are civil penalty and conduct provisions.
r. 639	Jemena was concerned that this provision could require it to provide a service for free for an unlimited time or face civil penalty.	While the GMRG has considered Jemena's concerns, it remains of the view that if a primary facility agreement has been suspended, any capacity trades that have been entered into should remain on foot for the duration of the trade and the service provider should recover any charges it is owed from the primary capacity holder. The GMRG does not therefore consider it necessary to amend the classification of this rule as a civil penalty provision.
r. 640(1)	Palisade was of the view that this provision should not be classified as a civil penalty and conduct provision because in its view the obligation is subjective.	The GMRG disagrees with Palisade that the obligation for a transportation service provider to amend a facility agreement within a specified time is subjective. No amendments have therefore been made to this aspect of the regulations.

Provision	Stakeholder concern	GMRG response
Operational Transportation Service Code		
Part 3, clause 2	APA noted that under the draft Code, the provision of services is assumed to commence on the execution date but that often there are a number of things that occur between execution and service commencement date. APA therefore suggested the inclusion of a 'Services Effective Date' concept in the Code.	To address APA's concerns, the Code has been amended to provide for the agreement to commence on the 'Commencement Date', which is the day commencing on the fifteenth Business Day after the execution of this Agreement or such other date specified by the parties.
Part 3, clause 4.7	Epic noted that the requirement in clause 4.7(e) of the Code for a service provider to notify shipper as soon as practicable whether and to what extent it accepts or rejects a renomination for a service is inconsistent with their current practice, which is to schedule renominations at set interval times.	To address Epic's concerns, the Code has been amended to require a transportation service provider to notify a shipper as soon as practicable (or by such interval (if any) as specified in the Facility Specific Terms) whether and to what extent it accepts a renomination.
Part 3, clauses 7.1-7.2	Epic raised two general concerns with clause 7 of the Code: <ul style="list-style-type: none"> The first concern relates to the general curtailment provisions in clause 7.1. Epic was of the view that this clause should allow non-firm services to be interrupted in the specified priority order for any reason where there is insufficient capacity to satisfy all nominations. The second concern relates to the liability associated with general curtailments in clause 7.2. Epic was of the view that this created unnecessary ambiguity by imposing a special provision as to the treatment of one particular type of breach of the agreement whilst remaining silent about others. 	The GMRG has considered the concerns raised by Epic, but does not consider any amendments are required because: <ul style="list-style-type: none"> Clause 7.1(i) already allows service providers to curtail capacity where there is insufficient capacity. In the GMRG's view, if a provision is included in the Code expressly allowing curtailment when the service provider has not acted reasonably and prudently, a further provision should be included setting out the liability position for curtailment in those circumstances.
Part 3, clause 10.5	APA was of the view that the \$20 m liability cap for off-specification gas in clause 10.5 were too low and did not provide adequate incentive for shippers to put safeguards in place to prevent such an event occurring. APA therefore suggested the cap be removed.	Contrary to APA's view, the GMRG is of the view that the \$20 m liability cap for off-specification gas appropriately balances the interests of shippers and service providers and will provide shippers a strong incentive to put in place safeguards to manage off-specification events to the extent they can. The GMRG also notes that if the Code was amended as APA suggested then there is a danger that fewer shippers (particularly smaller and medium sized shippers) would participate in the capacity trading platform and day-ahead auction, which would limit the effectiveness of the reforms. No amendments have therefore be made to this clause.
Part 3, clause 28	APA was of the view that service providers should not be required to give effect to a bilateral trade if the counterparty to the trade is in breach of its facility agreement.	The GMRG agrees that this is a reasonable ground for service providers refusing to give effect to a bilateral trade. Clause 28.2 of the Code has been amended accordingly.

Table A.16: Capacity trading platform and day-ahead auction: Feedback on draft amendment to the NGL, NGR and Regulations

Provision	Stakeholder concern	GMRG response
NGL		
General	APA and Jemena were of the view that the proposed amendments to the NGL do not go far enough to ensure that service providers do not breach their existing contractual obligations when applying the auction priorities and scheduling requirements set out in Part 25 of the NGR. To address this issue, APA suggested a provision be included in the NGL to give service providers relief from contractual liability to the extent the failure was due to an obligation imposed under the NGR.	To address the concerns raised by APA and Jemena, a transitional immunity provision has been included in the savings and transitional section of the NGL.
s. 2(1)	APA, Palisade and APGA noted the definition of capacity auction and transportation services in the NGL do not limit the scope of the auction to a day-ahead auction of transportation and compression services.	The definitions of capacity auction and transportation services in the NGL were drafted to provide some flexibility to accommodate changes in the scope of the auction over time through amendments to the Regulations and the NGR. While this flexibility has been provided for in the NGL, the provisions in Part 25 of the NGR make it clear that the auction is a day-ahead auction and only relates to pipeline and compression services. Any proposed changes to the scope of the auction would therefore need to be subject to a Regulation and/or rule change, which would require an assessment of whether the proposed change is consistent with the NGL. The approach employed in this context is consistent with the way other markets have been implemented in the NGL. No changes have therefore been made to the NGL to address this issue.
s. 74(1)	APA expressed some concern about the potential for the term auction to be read broadly in this section and suggested that the rule making power in s. 74(1)(aab) be limited to rules relating to the AEMO's capacity auction functions and the activities of transportation service providers and transportation facility users in connection with a capacity auction conducted by AEMO.	To address the concerns raised by APA, the definition of capacity auction in s. 2 has been amended to make it clear that it only refers to a capacity auction conducted by AEMO.
s. 91BRM	APA and Origin questioned the inclusion of s. 91BRM(2) in the NGL, which allowed AEMO to trade transportation capacity to the extent necessary or desirable for the efficient operation of the capacity auction.	While this provision was modelled on similar provisions for the GSH, STTM and DWGM, the GMRG has confirmed that AEMO does not require this power. This provision has therefore been removed from the NGL.
s. 228K	APA and Jemena questioned the inclusion of s. 228K, which states that a service provider must not engage in price discrimination when providing operational transportation services unless it is conducive to efficient service provision. The ECA also questioned whether the test for what constitutes price discrimination should be an objective test rather than subjective test.	Section 228K is modelled on s. 136 of the NGL and is, in the GMRG' view, appropriate to employ in this context given the potential for inefficient price discrimination to affect the operation of the capacity trading platform and auction. In the GMRG's view, this test is an objective test. No amendments have therefore been made to the drafting of this section.
Part 22 of the NGR		
r. 536A and r. 639	APA raised some concerns about the requirement for AEMO to determine the price to be paid to service providers during the service continuity period.	Rule 639 has been amended to make it clear that if a primary service agreement is terminated, then the price to be paid to service providers during the service continuity period will be based on the price at which the capacity was sold by the primary capacity holder through the GSH.

Provision	Stakeholder concern	GMRG response
Part 25 of the NGR		
r. 647	APA and Origin noted that the definition of operational capacity in r. 647 does not make it clear that the operational capacity is to be determined by the service provider. Origin also noted that service providers should be responsible for determining whether there is a capacity shortfall under r. 651.	Rather than amending the definition of operational capacity in r. 647, rr. 651 and 653 have been amended to make it clear that service providers are responsible for determining the operational capacity used in the calculation of auction quantity limits and auction priorities.
r. 648	In bilateral discussions with one shipper, concerns were raised about the potential for a pipeline to make a small investment to make a pipeline bi-directional pipeline to avoid releasing any backhaul services in the auction.	The GMRG agrees there is a risk that if a service provider modifies the pipeline to allow it to flow in both directions but does not enter into a contract for the provision of services in both directions, then capacity that would otherwise have been released through the auction on a backhaul basis will not be released (i.e. because there is no contracted but un-nominated capacity that can be released in this direction). To address this risk, the definition of bi-directional pipeline has been amended to require the service provider to have contracts in both directions to be considered a bi-directional pipeline during the term of those contracts.
r. 651	APA noted the potential for r. 651(d) to allow shippers to submit renominations in excess of their contracted capacity. APA also noted that firm park services should rank ahead of the auction service if the firm park service also provides for the transportation of gas.	<p>While the concern that APA has raised about renominations is dealt with in the Code, the definitions and auction service priority principles in Part 25 of the NGR have been amended to make it clear that a renomination cannot exceed a shipper's reserved capacity.</p> <p>In relation to firm park services, it is worth noting that the auction does not require park capacity to be released into the auction. Service providers will therefore be able to accommodate any renominations by shippers with a firm park service without curtailing the auction. In those cases where a park service is sold on a bundled basis with a firm forward haul service, the NGR requires:</p> <ul style="list-style-type: none"> the CBU capacity associated with the firm forward haul service to be released in the auction; and the service provider to treat the transportation component as a firm forward haul service for the purposes of the auction priority. <p>It has not therefore been necessary to make any amendments to accommodate park services in the auction priority principles.</p>
r. 652	Origin raised concerns about r. 652(12), which states that the auction results are to be treated as final and not subject to review. Origin noted that while this may be appropriate in some instances, it should be limited to cases where there has not been a manifest error. APLNG also questioned the inclusion of r. 652(4)(b), which states that the auction should not change the scheduled direction of flows on a bi-directional pipeline.	<p>The GMRG understands the concerns raised by Origin, but notes that in contrast to other markets, there will be no participant compensation fund set up for the day-ahead auction. It will not be possible therefore to have recourse to this type of fund to compensate parties for any manifest errors in the auction results. No changes have therefore been made to this requirement.</p> <p>As to APLNG's question, it is worth noting that because the auction will be conducted so late in the day, service providers will have little time to manage a change in pipeline direction. Rule 652(4)(b) has therefore been included to ensure the pipeline can be operated in a safe and reliable manner.</p>
r. 653	APA noted that the auction quantity limits for compression services should refer to the CBU capacity of the compression service facility.	The GMRG agrees with APA and has amended r. 653 accordingly.

Provision	Stakeholder concern	GMRG response
r. 665	APA was of the view that any record keeping guidelines developed by the AER should be subject to the standard consultative procedure.	The GMRG notes that there will be insufficient time for the AER to employ the standard consultative procedure when developing the first guideline, which is why the transitional rules provide a waiver from this requirement. While the AER will not be required to employ the standard consultative procedures in this case, it will still be expected to consult with interested parties when developing the initial guideline.
r. 666	APA suggested that the reference to a 10% change in nominations be amended to clarify that the change is measured against the nomination made by shippers prior to nomination cut-off time. ERM also suggested that the requirement for shippers to maintain records of material renominations exclude nominations that have no effect on the capacity released in the auction or give rise to curtailment. The examples ERM cited include nominations to: in-pipe trading points; transfer gas from one account or service to another; and to give effect to imbalance transfers;	The GMRG agrees with the suggestions proposed by APA and ERM and has amended this rule accordingly.
r. 673-674	APA noted that if a shipper fails to pay AEMO and AEMO subsequently recovers an amount from that shipper (including through credit support), the amount should be paid to the service provider and include any interest payable on that amount.	The GMRG agrees with APA's suggestion and has amended rr. 673-674 accordingly.
Sch. 5, Part 4, rules 3-4	Epic noted that there was some ambiguity in this rule about whether transitional services would be considered a 'firm forward haul' or a 'firm compression service' within the meaning of the r. 651(1) and therefore suggested this be clarified. Epic was also of the view that the cut-off date used to determine whether a service constitutes a transitional firm service should be based on the date the legal and regulatory framework was released for consultation (i.e. 19 March 2018) rather than when the Energy Council agreed to the design of the auction.	To address the concerns raised by Epic, Schedule 5, Part 4, rule 3 has been amended to remove the ambiguity regarding firm services. Rule 4 and the definitions used in Schedule 5, Part 4 of the transitional rules have also been amended to refer to a cut-off date of 19 March 2018 rather than 3 January 2018.
Regulations – Civil penalty and conduct provisions		
r. 650(2)	Epic was of the view that the requirement to give effect to the auction priority principles should not be a conduct provision where a breach is the result of a determination of services as transitional firm rights.	The concern raised by Epic has been addressed by requiring the AER to oversee the classification of transitional firm rights. No change has therefore been made to the classification of this provision as a conduct provision.
r. 650(3)	Jemena raised concerns about the potential to be subject to a civil penalty even though it may be unable to amend its primary facility agreements to give effect to the scheduling requirements in rule 650(3).	The inclusion of the transitional immunity provision in the NGL that covers the priority principles and scheduling requirements is intended to address Jemena's concern. No change has therefore been made to the classification of this rule as a civil penalty provision.

Table A.17: Secondary capacity reporting framework: Feedback on draft amendments to the NGL and NGR

Provision	Stakeholder concern	GMRG response
NGL		
s. 223A	The ECA suggested that s. 223A be supplemented with a prohibition on information that is false and misleading. The ECA also noted that this should not be limited to information that the parties know is false or misleading. Rather, it should apply to cases where the person should have 'reasonably known the information is false or misleading'.	<p>The GMRG has considered the concerns raised by the ECA about the potential for false and misleading information on capacity trades to be reported, but notes that s. 225 of the NGL, which applies to information provided to AEMO for publication on the Bulletin Board, already prohibits the provision of information known to be false or misleading. The GMRG does not therefore consider it necessary to include an additional prohibition in s. 223A.</p> <p>In relation to the ECA's proposal to extend the prohibition to information a person should have reasonably known to be false and misleading, the GMRG notes that the requirement to know the information is false or misleading is used throughout the NGL.⁴²¹ So while the GMRG does not necessarily disagree with the ECA, it does not consider it appropriate to change the requirement in this part of the NGL without a more fulsome consideration being given to the appropriateness of such a change across the NGL.</p>
Part 18 of the NGR		
r. 190A	Origin was of the view that the requirement to report bilateral capacity trades one business day after the 'trade date' was overly onerous and suggested the timeframe should be extended to at least two days.	The issue of when trades should be reported was considered during the development of the GMRG's Final Recommendations on the Capacity Trading Reform Package (Standardisation, capacity trading platform and reporting framework for secondary trades), ⁴²² which were agreed to by Ministers on 24 November 2017. As noted in the final recommendations, delaying the publication of information on bilateral trades will minimise the price discovery benefits. The GMRG does not therefore recommend any changes to the timing of the reporting obligation.
r. 195A	Origin raised concerns about the potential for the publication of capacity trades to reveal commercially sensitive information that "could undermine a shipper's position in the gas market, or a related market such as electricity". Origin therefore suggested additional measures be included in the NGR to protect commercial-in-confidence information.	<p>The issues raised by Origin about the protection of commercial in-confidence information were also considered in the development of GMRG's Final Recommendations on the Capacity Trading Reform Package (Standardisation, capacity trading platform and reporting framework for secondary trades).⁴²³ As noted in these final recommendations the GMRG has, to the extent possible, sought to protect the anonymity of counterparties by requiring trades to be reported on a zonal or facility basis.</p> <p>While the GMRG understands that there may still be some limited cases where it is possible to determine the identity of trading parties, in its view the anonymity of trading parties should not be protected at all costs because to do so would undermine the price discovery benefits associated with this transparency measure. It is also worth noting that while the publication of trades will result in some key information being made available to the market, the reporting framework will not require information on the actual use of the capacity to be published. Nor will it require the publication of information on the primary capacity held by the shipper. It would be difficult therefore for market participants to infer anything from the release of the proposed information, other than the fact that additional capacity has been acquired and the price at which it was acquired.</p>

⁴²¹ See for example sections 42, 60, 91FE and 91FEC.

⁴²² GMRG, Final Recommendations: Capacity Trading Reform Package (Standardisation, capacity trading platform and reporting framework for secondary trades), November 2017, p. 141.

⁴²³ *ibid*, p. 139.



Table A.18: Standard market timetable: Feedback on the draft amendments to the NGL and NGR

Provision	Stakeholder concern	GMRG response
NGL		
s. 83B	APA thought the reference to 'the exchange of information about use of transportation services and deliveries and receipts of natural gas ' in the NGL was broader than necessary to achieve the policy intent.	The GMRG agrees that there was some ambiguity in the original drafting of s. 83B. This section has therefore been amended to clarify that the standard market timetable may provide for the times for nominations and renominations for the use of transportation services and deliveries and receipts of natural gas.
s. 83D	The ECA suggested that the reference to 'implement the standard market timetable' in this provision be clarified so that the provision can be effectively enforced.	The GMRG agrees with the ECA that the term 'implement' is not as clear as it could be. Section 83D has therefore been amended by replacing the term 'implement the standard market timetable' with 'use the standard market timetable'.
Part 26 of the NGR		
r. 678	Epic suggested that the standard market timetable provisions in the NGR specify the nomination cut-off times for the auction services and for all other services.	The GMRG agrees with Epic's suggestion and has amended Part 26 to specify the auction service nomination cut-off time (6.45 pm on gas day D-1) for facilities that are subject to the auction.