



Customs (Prohibited Exports) (Operation of the Australian Domestic Gas Security Mechanism) Guidelines 2017

I, Senator the Honourable Matt Canavan, Minister for Resources and Northern Australia, make the following Guidelines.

Dated 30 June 2017

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1 Name

These Guidelines are the *Customs (Prohibited Exports) (Operation of the Australian Domestic Gas Security Mechanism) Guidelines 2017*.

2 Commencement

These Guidelines commence the day after they are registered on the Federal Register of Legislation.

3 Authority

These Guidelines are made under section 13GF of the Regulations.

4 Definitions

Note: A number of expressions used in these Guidelines are defined in the definitions section of the Regulations, including the following:

- (a) authorised officer;
- (b) Collector;
- (c) domestic shortfall year;
- (d) Resources Department;
- (e) Resources Minister.

In these Guidelines:

ADGSM is short for Australian Domestic Gas Security Mechanism.

Department means the Resources Department.

EMSO is short for Exporter Market Security Obligation.

Exporter Market Security Obligation means the proportion of the Total Market Security Obligation to be applied to a particular LNG Project.

Export Permission means a written permission to export LNG granted by the Resources Minister under paragraph 13GC(1)(a) of the Regulations.

LNG is short for liquefied natural gas.

LNG Exporter means a person who exports LNG from Australia.

Note: The exporter is the entity that owns goods at the point they are exported from Australia.

LNG Project means the entity, or group of entities, which own, control or operate an LNG facility and its associated upstream operations, and any related bodies corporate.

LNG Project Tenements means all tenements producing gas that can be considered Own gas or Third party export compatible gas.

Minister means the Resources Minister.

Minister's Determination means a determination made by the Minister in accordance with section 13GE of the Regulations.

Minister's Notification means a notifiable instrument made by the Minister in accordance with paragraph 13GE(2)(c) of the Regulations.

Own includes legally or beneficially, and wholly or partly, own.

Own gas means gas produced from one or more tenements:

- (a) owned by the LNG Project to the extent of the LNG Project's participating interest share of such gas; or
- (b) owned by one or more entities of the LNG Project, where:
 - (i) the gas is contracted directly by such entity or entities to supply the LNG Project; and
 - (ii) the gas was primarily developed for the purpose of supplying the export market.

Regulations means the *Customs (Prohibited Exports) Regulations 1958*.

Related bodies corporate has the same meaning as in the *Corporations Act 2001*.

Shortfall means an insufficient supply of natural gas for Australian consumers.

Tenements includes tenements in relation to onshore and offshore gas fields.

Third party export compatible gas means gas produced from tenements owned by a third party, where:

- (a) the gas is contracted directly by such third party to supply the LNG Project; and
- (b) either:
 - (i) the gas was primarily developed for the purpose of supplying the export market; or
 - (ii) the contract for the supply of gas was entered into for the purpose of supplying the LNG Project, before a final investment decision was made in relation to the LNG Project.

TMSO is short for Total Market Security Obligation.

Total gas used means the sum of gas:

- (a) proposed to be exported; and
- (b) any other gas that is forecast to be consumed or lost in the LNG Project's operations.

Total Market Security Obligation means the proportion of a gas shortfall that the Minister considers is attributable to LNG Projects in net-deficit, and may be remedied by imposing export controls on net-deficit LNG Exporters.

5 Purpose

- (1) The purpose of these Guidelines is to set out the requirements, indicative timing, processes, and considerations associated with the operation of the ADGSM. This

includes in relation to decisions by the Minister under Division 6 of the Regulations regarding the determination of a domestic shortfall year, and the granting of Export Permissions.

- (2) These Guidelines are subject to, and do not replace or amend the requirements of, the Regulations and the *Customs Act 1901*, which should be read in conjunction with these Guidelines.
- (3) These Guidelines are not a legislative instrument. The Minister may depart from the Guidelines where justified by circumstances. Where the Minister proposes to depart from the Guidelines, procedural fairness will be afforded to any affected persons.

6 Overview of the ADGSM

- (1) The objective of the ADGSM is to ensure that there is a sufficient supply of natural gas to meet the forecast needs of Australian gas consumers by requiring, if necessary, LNG Projects which are drawing gas from the domestic market to limit exports or find offsetting sources of new gas.
- (2) The ADGSM applies Australia wide. In practice, the ADGSM:
 - (a) establishes a process for the Minister to determine whether there will not be a sufficient supply of natural gas for Australian consumers in the forthcoming calendar year (a *domestic shortfall year*); and
 - (b) prohibits exports of LNG during a domestic shortfall year, unless written permission has been granted by the Minister or an authorised officer; and
 - (c) establishes a licensing regime, whereby the Minister or an authorised officer may grant Export Permissions to LNG Exporters.
- (3) The ADGSM takes effect from 1 July 2017 and will cease to operate on 1 January 2023.
- (4) The ADGSM will be reviewed in 2020, after two full years of operation. The review will consider:
 - (a) the effectiveness and efficiency of the ADGSM in ensuring a sufficient supply of natural gas for Australian consumers with minimum disruption to Australia's LNG export industry; and
 - (b) the impact of the ADGSM on the competitiveness of Australia's LNG export industry, Australia's investment reputation, and Australia's international reputation for quality and reliability; and
 - (c) the impact of the ADGSM on the Australian domestic gas market, including the development of new and additional gas resources and market functions; and
 - (d) whether there are appropriate alternative mechanisms to achieve objectives; and
 - (e) whether Division 6 of the Regulations should be repealed or amended and the timing of any such repeal or amendment.

7 Summary of the ADGSM process

- (1) Restrictions on exports under the ADGSM will only apply where the Minister determines that a calendar year will be in shortfall (a domestic shortfall year).
- (2) If, in the Minister's view, it is necessary to consider whether a year will be a domestic shortfall year, the Minister will commence the following process:
 - (a) the Minister will first issue a notification (the **Minister's Notification**) to provide notice of his or her intention to consider whether the forthcoming calendar year will be a domestic shortfall year;
 - (b) the Minister will consult with relevant market bodies and government agencies, LNG Projects, and other stakeholders to seek their views about the forecast state of the Australian domestic gas market;
 - (c) the Minister will consult other relevant Australian Government Ministers, including the Prime Minister and the Ministers for Energy, Trade, Foreign Affairs, and Industry, to seek their views about the forecast state of the Australian domestic gas market;
 - (d) where the Minister has reasonable grounds to believe that there will not be a sufficient supply of natural gas for Australian consumers during the year unless exports are controlled, and that exports of LNG would contribute to that lack of supply, the Minister will make a determination (the **Minister's Determination**) that export controls will apply in that year (the year will be a domestic shortfall year);
 - (e) the Minister will then determine the proportion of a gas shortfall that the Minister considers is attributable to net-deficit LNG Projects and may be remedied by imposing export controls on net-deficit LNG Projects (the Total Market Security Obligation (**TMSO**));
 - (f) the Minister will allocate the TMSO to net-deficit LNG Projects on a pro-rata basis (the Exporter Market Security Obligation (**EMSO**)). Each EMSO will be the basis for the approved volumes included in provisional permissions for LNG Exporters associated with net-deficit LNG Projects and will be capped at the relevant LNG Project's net-deficit quantum;
 - (g) the Minister will write to LNG Projects and their associated LNG Exporters advising of his or her decision about whether the forthcoming year will be a domestic shortfall year with reasons for the decision, and any provisional Export Permission decision (where applicable);
 - (h) the Minister will consider the views of LNG Projects and LNG Exporters, following which the Minister will issue Export Permissions to the LNG Exporters.
- (3) The Minister will endeavour to have issued the Minister's Notification by 1 July in a calendar year and commenced the process in subsection 7(2) as early as possible but by no later than 1 October in a calendar year.
- (4) If, in the Minister's view, it is not necessary to consider whether a year will be a domestic shortfall year, the Minister will not undertake the above process, and export controls will not apply for the forthcoming calendar year.

8 Summary of timeframes

Minister's Notification

- (1) The Minister's Notification will generally be issued:
 - (a) by 1 July; and
 - (b) at least 60 days before the Minister decides whether to determine a domestic shortfall year.
- (2) Despite subsection 8(1), the Minister may make the Minister's Notification at any time up to and including 1 October in a calendar year.

Consultation

- (3) Where practical, the Minister will allow at least:
 - (a) 30 days to receive submissions from stakeholders after issuing the Minister's Notification; and
 - (b) 30 days for the Minister to consider the submissions and determine whether a year should be determined as a domestic shortfall year.

Minister's Determination

- (4) The Minister's Determination will generally be issued:
 - (a) by 1 September; and
 - (b) at least 30 days after the consultation on the Minister's Notification closes; and
 - (c) at least 60 days after the Minister issues the Minister's Notification.
- (5) Despite subsection 8(4), the Minister may make the Minister's Determination at any time up to and including 1 November in a calendar year.

Export Permissions

- (6) The Minister will issue provisional Export Permissions to LNG Projects on or about the date the Minister's Determination is issued.
- (7) LNG Projects will generally be given 30 days to comment on their provisional Export Permission, following which the Minister will finalise and issue the Export Permissions to LNG Exporters.
- (8) Export Permissions will take effect at the start of the domestic shortfall year.

9 Process for the Minister to consider whether a year will be determined as a domestic shortfall year

Minister's Notification

- (1) Before the Minister may determine that a year will be a domestic shortfall year, the Minister must first, by notifiable instrument, notify his or her intention to determine whether the forthcoming calendar year will be a domestic shortfall year.

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- (2) Prior to making the Minister's Notification, the Minister may work with industry, government and market bodies to identify if industry can voluntarily make available volumes of gas to Australian consumers which would be sufficient to avoid the occurrence of a shortfall. Any volumes of additional gas provided to the market through this process would be taken into account in any decisions by the Minister to issue a Minister's Notification or Minister's Determination.
 - (3) The Minister may alternatively announce that he or she does not consider it necessary to consider whether a year will be a domestic shortfall year.

Consultation with stakeholders

- (4) Shortly after issuing the Minister's Notification, the Minister will write to:
 - (a) relevant market bodies and agencies; and
 - (b) all LNG Projects; and
 - (c) relevant Australian Government Ministers; and
 - (d) any other stakeholders with whom the Minister wishes to consult.

Consultation with relevant market bodies

- (5) The Minister will write to relevant market bodies and agencies that are well placed to provide information on the Australian domestic gas market.

Example: This may include the Australian Energy Market Operator and the Australian Competition and Consumer Commission.
- (6) The Minister will request relevant market bodies and agencies to provide written advice on:
 - (a) the likelihood of a shortfall in the forthcoming calendar year; and
 - (b) if applicable, an estimate of the likely volume of the shortfall in petajoules (PJs); and
 - (c) if applicable, the key factors driving the shortfall (including, but not limited to, the extent to which LNG exports are forecast to contribute to a shortfall); and
 - (d) if applicable, the existence of any market impediments that might prevent export controls from practically supplying additional, reasonably priced gas to the domestic market.
- (7) Estimates of the likelihood and extent of a potential shortfall should be developed using a reasonable price which reflects that Australian gas consumers (at a wholesale level) should, on average, pay no more for their gas than the value of that same gas if sold for export (for example, the applicable LNG netback price).

Consultation with LNG Projects

- (8) The Minister will write to all LNG Projects to notify them about the Minister's Notification, and to request:

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- (a) data on the LNG Project's respective Own gas, Third party export compatible gas, total gas use (including export and consumption), and sanctioned and unsanctioned upstream capital projects; and
 - (b) identification of the LNG Exporters associated with the LNG Project.

Note: The LNG Exporters associated with an LNG Project will be the entities that hold the relevant Export Permissions.

- (9) This information may be requested in relation to previous, current and forthcoming forecast periods, and may form the basis of any subsequent assessment of an LNG Project's net impact on the domestic gas supply and Export Permission conditions.
- (10) Information provided by LNG Projects will also be compared to previous years' activities, and verified against the information provided by relevant market bodies and agencies. Information provided by LNG Projects will be handled with due regard to commercial and other sensitivities.
- (11) LNG Projects may also submit their views on the Australian domestic gas market outlook and any other relevant information, including any proposals for an industry-led solution to a potential shortfall.

Consultation with other relevant Ministers

- (12) The Minister will consult other relevant Australian Government Ministers to notify them of his or her intent to determine whether there are reasonable grounds to believe that there will not be a sufficient supply of natural gas for Australian consumers unless exports are controlled, and to seek their views on this matter as well as the impact of proposed controls on the following:
 - (a) the Australian domestic gas market and consumers;
 - (b) the LNG export industry;
 - (c) Australia's international reputation and trade and investment interests.
- (13) Other relevant Ministers include the Prime Minister and Ministers with responsibility for Energy, Trade, Foreign Affairs, and Industry.

Consultation with other stakeholders

- (14) The Minister may write to any other stakeholders he or she considers appropriate. For example, this may include large industrial gas users, other major gas consumers, and relevant industry groups.
- (15) Stakeholders and members of the public may submit their views on the Australian domestic gas market. The Minister may take this information into account when deciding whether to determine a calendar year as a domestic shortfall year. Submissions can be forwarded to:

Minister for Resources
PO Box 6100
Parliament House
CANBERRA ACT 2600

or
Email: ADGSM@industry.gov.au

Minister's consideration of submissions and other information in deciding whether to make the Minister's Determination

- (16) The Minister will consider all relevant and available information and decide whether to determine a year as a domestic shortfall year.
- (17) The Minister may exercise his or her discretion and judgement in considering the credibility and integrity of any information.
- (18) For the Minister to determine a year as a domestic shortfall year, the Minister must have reasonable grounds for his or her belief that:
 - (a) there will not be a sufficient supply of natural gas for Australian consumers unless exports of LNG are controlled; and
 - (b) exports of LNG would contribute to that lack of supply.
- (19) In deciding whether to make the Minister's Determination, the Minister will consider Australian consumers in each part of the Australian domestic gas market, including each of the major gas markets that together comprise the Australian domestic gas market (that is, the Western, Northern, and Eastern gas markets).
- (20) The Minister may determine that Australian consumers in a part of the Australian domestic gas market will be affected by a shortfall, notwithstanding that consumers in other parts of the Australian domestic gas market will not be affected by a shortfall.

Example: The Minister may determine a year as a domestic shortfall year where he or she has reasonable grounds to believe that there will not be a sufficient supply of natural gas for Australian consumers in the Eastern gas market during the year unless exports are controlled (and LNG exports would contribute to the shortfall), despite that consumers in the Northern and Western gas markets will not be affected by a shortfall.
- (21) Where the Minister determines a year as a domestic shortfall year, export controls will apply Australia wide (rather than just to the part of the Australian domestic gas market which is identified as being in shortfall).
- (22) When considering whether there are reasonable grounds to believe that there will not be a sufficient supply of natural gas for Australian consumers unless exports are controlled, and that exports of LNG would contribute to that lack of supply, the Minister may take into account a range of factors. These may include, but are not limited to, the following:
 - (a) the extent to which exports are contributing to a shortfall—the Minister will consider the extent to which LNG Projects are drawing from the domestic gas market;
 - (b) external factors influencing the gas market—the Minister may consider the extent to which any external factors are contributing to a shortfall in the domestic market;

Example: This may include natural disasters, infrastructure malfunctions or closures, or an unprecedented sudden rise in demand.

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- (c) the materiality of a shortfall—the Minister may choose not to determine a domestic shortfall year, even where he or she determines there will be a shortage of gas in the market, if he or she considers the likely shortfall to be immaterial;

Example: The Minister may consider a shortfall immaterial where the costs of imposing export controls are likely to be greater than the benefit to Australian consumers affected by a shortfall.

- (d) the ability for LNG Exporters to redirect gas to the domestic market—the Minister may consider the practical impact of export controls in the event that he or she determines there is a domestic shortfall year;

Example: The Minister may consider whether market impediments are likely to prevent export controls from resulting in additional supply to Australian consumers affected by a shortfall.

- (e) the availability of an industry-led solution to an identified shortfall—the Minister may consider whether one or more LNG Projects have identified that they will voluntarily make available volumes of gas to Australian consumers in the relevant part of the Australian domestic gas market which would be sufficient to avoid the occurrence of a shortfall;
- (f) the past performance of all participants in the Australian domestic gas market, including any strategic behaviour or ‘gaming’ of the ADGSM.

- (23) Where the Minister determines a year as a domestic shortfall year, the Minister will issue a statement of reasons, which will be published on the Department’s website.
- (24) The Minister may choose not to determine a domestic shortfall year, even where he or she determines there will be a shortfall, based on consideration of the above factors. The Minister may issue a statement of reasons for this decision.
- (25) The Minister may revoke a Minister’s Determination at any time. In such circumstances, the Minister will make a new notifiable instrument to repeal the Minister’s Determination, and write to each LNG Project to notify them of the decision.

10 Process for the Minister to determine the Total Market Security Obligation and Exporter Market Security Obligation

Minister’s calculation of the Total Market Security Obligation

- (1) Where the Minister determines a year as a domestic shortfall year, the Minister will then calculate the Total Market Security Obligation (the **TMSO**).
- (2) The TMSO is the proportion of the Australian domestic gas market shortfall that the Minister considers is attributable to LNG Projects that are in net-deficit and should be met by imposing export controls on those LNG Projects, to incentivise them to increase net gas supply to Australian consumers.
- (3) The TMSO will be less than or equal to the sum of the net-deficit of the LNG Projects connected to the part of the domestic market that will be in shortfall.

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- (4) The Minister will initially determine a provisional TMSO. The Minister will consult with other relevant Australian Government Ministers before finalising the TMSO.

Calculation of LNG Projects' net market position

- (5) Prior to determining the TMSO, the Minister will determine each LNG Project's net market position and whether each LNG Project is likely to be in net-deficit or a net-contributor to the domestic market in the forthcoming calendar year.
- (6) The net market position is a measure of the extent to which an LNG Project is drawing from, or adding to, the quantity of gas to the domestic market over the forthcoming calendar year.
- (7) The net market position of an LNG Project will be calculated by reference to that LNG Project's LNG Project Tenements. LNG Project Tenements include all tenements that can be considered Own gas or Third party export compatible gas.
- (8) LNG Projects will be asked to include a list of LNG Project Tenements in their submission to the Minister. This is intended to demonstrate, in a single document, the source of gas that is proposed to be developed for export by an LNG Project.
- (9) Once the Minister accepts an LNG Project's LNG Project Tenements as accurate (for example, the first time the Minister grants an Export Permission based on the list under subsection 10(8)), those tenements will be treated consistently in any future decisions, unless there is a material change of circumstance which would support a reconsideration.
- (10) An LNG Project will be regarded as being in net-deficit in the forthcoming calendar year if its Total gas used is greater than the sum of its Own gas and Third party export compatible gas.
- (11) An LNG Project will be regarded as a net contributor if it is not in net-deficit.
- (12) If an LNG Project is assessed as being in net-deficit, then the quantum of the deficit will be calculated by determining the LNG Project's Total gas used, minus Own gas and Third party export compatible gas.
- (13) The inclusion of Own gas and Third party export compatible gas in the consideration of the LNG Project's net market position is intended to:
- (a) recognise that some gas used in exports is sourced from gas fields developed specifically for the export market; and
 - (b) ensure developments of such fields are not disadvantaged; and
 - (c) incentivise new development of third party gas.

Minister's calculation of Exporter Market Security Obligation

- (14) After determining the LNG Projects' net market position, the Minister will allocate the TMSO on a pro-rata basis across all LNG Projects in net-deficit (excluding LNG Projects located in a part of the Australian domestic gas market which is physically unconnected to the part of the Australian domestic gas

market which is in shortfall) in proportion to the quantum of deficit for each LNG Project in net-deficit. The proportion of the TMSO allocated to a net-deficit LNG Project is that LNG Project's Exporter Market Security Obligation (the **EMSO**).

- (15) Each LNG Project's EMSO will be capped at the lesser of the pro rata TMSO allocation and its net-deficit amount. If there is only one LNG Project in net-deficit, then that Project's EMSO will be equal to the lesser of its net deficit and the TMSO.
- (16) LNG Projects will be permitted to meet their EMSO by reducing their export quantities, or making additional gas available to the domestic market.

Minister's consideration of past performance in future TMSO and EMSO calculations

- (17) When calculating the TMSO and LNG Projects' EMSOs, the Minister may take into account the past performance of LNG Projects and LNG Exporters.
- (18) Past performance may include, but is not limited to, the following:
 - (a) LNG Exporters' compliance with any conditions imposed on previous Export Permissions;
 - (b) any identified 'gaming' of any aspect of the ADGSM;
 - (c) the provision of misleading or deceptive information;
 - (d) any other behaviours the Minister considers are against the spirit of the ADGSM.
- (19) Where the Minister considers that an LNG Project or LNG Exporter has engaged in behaviour listed in paragraphs 10(18)(b) to (d), the Minister will consult with the relevant LNG Project or LNG Exporter prior to determining the relevant EMSO.

11 Process for the Minister to grant an LNG Export Permission for a domestic shortfall year

Types of Export Permissions

- (1) Without limitation, the Minister may grant the following types of Export Permissions:
 - (a) an *Unlimited Volume* (UV) permission—allows the LNG Exporter to export an unlimited volume of LNG from a particular LNG Project over the permission term. The Minister may grant a UV permission to one or more LNG Exporters associated with an LNG Project that is physically unconnected to the part of the Australian domestic gas market that is experiencing a shortfall (for example, it is located in a separate gas market);
 - (b) an *Allowable Volume* (AV) permission—allows the LNG Exporter to export up to a maximum volume of LNG from a specific LNG Project over the permission term. Maximum exports under an AV permission will typically be equal to an LNG Project's EMSO subtracted from its proposed

total export quantity. An AV permission may be granted to all LNG Projects connected to the parts of the Australian domestic gas market experiencing a shortfall.

- (2) The Minister will notify each LNG Project and LNG Exporter of a provisional Export Permission based on the Minister's assessment of each Project's net market position.
- (3) Where practical, the Minister will provide LNG Projects and LNG Exporters with 30 days to comment on the type of Export Permission the Minister proposes to grant, including (if applicable) the proposed volume allowance and any conditions the Minister proposes to apply to the Export Permission.
- (4) At the conclusion of the 30 day consultation period, having regard to any comments received from LNG Projects and LNG Exporters, the Minister will issue Export Permissions to LNG Exporters. The Minister will give reasons regarding each decision in relation to an Export Permission. Export Permissions will take effect at the start of the domestic shortfall year.

Who is required to hold an Export Permission?

- (5) In a domestic shortfall year, the export of LNG from Australia is prohibited unless the LNG Exporter has received an Export Permission and the Export Permission is produced to the Collector.
- (6) The LNG Exporter is the entity that owns the LNG at the point it is exported from Australia.
Example: Where LNG is exported Free On Board, the LNG Exporter is the entity that owned the LNG prior to it being loaded on to the ship.
- (7) LNG Projects will be asked to identify their associated LNG Exporters when the Minister writes to LNG Projects after issuing the Minister's Notification.
- (8) Where an LNG Project has more than one associated LNG Exporter, the LNG Project will be asked to identify the proportion of its proposed export volume that should be allocated to each associated LNG Exporter. If this information is not provided, the Minister may allocate the LNG Project's approved export volume to its associated LNG Exporters pro rata to their participating interest in the LNG Project.

Terms of an Export Permission

- (9) A domestic shortfall year will last for the duration of the relevant calendar year.
- (10) The ordinary term of an Export Permission will be the duration of the relevant domestic shortfall year.
- (11) Where the Minister determines, during a domestic shortfall year, that the next calendar year will also be a domestic shortfall year, export controls will continue in operation past the end of the first domestic shortfall year.

Note: The Minister's determination during the domestic shortfall year is subject to the same process and requirements regarding the Minister's Notification, consultation, and Minister's Determination.

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- (12) The Minister may grant an Export Permission for a period extending beyond the domestic shortfall year. This is intended to provide additional business certainty to industry stakeholders where it can be justified against commercial, operational, logistical or export contractual requirements.
 - (13) Where the Minister grants an Export Permission for a period extending beyond a domestic shortfall year, the export volume may be pro rata for the additional period, or the Minister may use an alternative means to determine the volume limit that will apply.
 - (14) Where an LNG Project wishes to request an Export Permission that is longer than the domestic shortfall year, the LNG Project should identify this in its submission to the Minister, and provide reasons supporting the additional period.

Conditions on an Export Permission

- (15) The Minister may grant an Export Permission to an LNG Exporter subject to whatever conditions he or she deems necessary and appropriate.
- (16) Without limiting the types of conditions the Minister may apply to an Export Permission, the Minister will impose conditions on LNG Exporters to provide regular reporting of their LNG export volumes.
- (17) Where there is more than one LNG Exporter associated with an LNG Project, information about export volumes may be reported on an aggregated LNG Project basis.
- (18) If an LNG Exporter does not comply with a condition attached to its Export Permission, then the Minister may do one or more of the following:
 - (a) revoke the permission;
 - (b) vary the permission (including in relation to type, volume, and other conditions);
 - (c) issue a new permission.

12 Variation and assignment of an Export Permission

Variation

- (1) The Minister may vary an Export Permission with the consent of the LNG Exporter.
- (2) An LNG Exporter may write to the Minister to seek a variation to its Export Permission at any time.
- (3) The Minister may approve a request from an LNG Exporter to vary an Export Permission, including the volume of maximum exports permitted or any other conditions, where he or she is satisfied that the variation is reasonable and appropriate.
- (4) Circumstances in which the Minister may approve a variation to an Export Permission may include where:

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- (a) the LNG Project has sourced new gas that was not accounted for in the original market balance assessment; or
 - (b) additional market supply has become available; or
 - (c) the LNG Project has offered natural gas into the domestic market at a reasonable price but the natural gas has not been acquired by the domestic gas market within a reasonable period of time; or
 - (d) the forecast shortfall in supply for the Australian domestic gas market has not eventuated.
- (5) When considering a request from an LNG Exporter to vary an Export Permission, the Minister may request additional information from that Exporter.
- (6) The Minister may propose a variation that differs from the proposal in the LNG Exporter's variation application. In such circumstances, the LNG Exporter's consent will be sought prior to varying its Export Permission.

Assignment

- (7) An Export Permission will generally specify that it may be assigned to another person with the written consent of the Resources Minister or an authorised person. This is intended to allow an LNG Exporter to transfer its Export Permission to another party where circumstances permit.
- (8) If the Resources Minister or an authorised person consents to the assignment of an Export Permission, the conditions of the Export Permission may be varied as appropriate in the circumstances. The consent and any variations to conditions must be endorsed on, or annexed to, the Export Permission.