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### **National Gas Emergency Response Protocol – Options Paper**

Thank you for the opportunity to comment on the Options Paper for the National Gas Emergency Response Protocol. Although consultation on this issue was initially disappointing from our perspective, we have found the subsequent industry consultation sessions, run by the Gas Emergency Protocol Working Group (GEPWG), very beneficial. The GEPWG sought industry input into the draft Options Paper, prior to its release for public consultation, and this has resulted in a much better product and a more satisfactory process.



We are particularly pleased to see the inclusion of an option for a Natural Gas Emergency Committee (NGEC). The esaa, ENA, APIA, APPEA and ERAA put forward this option to both the Ministerial Council on Energy (MCE) and the SCO late last year and it is encouraging to see that this option will be formally considered by Ministers.



We support the development of the NGEC and consider that it is appropriate to establish a permanent committee of representatives of Australian governments, the gas industry and end users to consult and advise Ministers regarding matters relevant to the management of gas emergencies (in inter-connected jurisdictions) on an ongoing basis. In addition, it is important that the NGEC facilitates the management of emergencies by gas industry participants through the application of commercial arrangements, recognising that markets are generally best placed to efficiently allocate gas. However, we consider that there are a number of issues that need to be addressed before the protocol options are considered by the MCE.



In line with the recent MoU and regardless of which option is agreed to by the MCE, it is imperative that Ministers make a commitment to 'no borders' in the event of a gas emergency and that 'pain sharing arrangements' are agreed between jurisdictions. Industry can inform the development of effective curtailment tables but only once the decision on 'pain sharing' has been reached. In addition, the MCE needs to agree that, if the exercise of emergency powers overrides the commercial rights of market participants, compensation will be forthcoming. This principle needs to be set out in the protocol with the detail, such as triggers etc, to be developed by the NGEC for subsequent agreement by Ministers.



The NGEC will need to develop detailed principles about when and how jurisdictional powers will be invoked and at what point any government intervention will end. In addition, there needs to be clarity about the principles that will apply if emergency powers are invoked. The exercise of jurisdictional powers should be minimised and be as efficient and effective as possible. The NGEC would act as a source of advice to Ministers in the exercise of their emergency powers.

The options paper suggests that there would be continuous information provision by industry to the NGEC during a gas emergency and that there would be periodic information provision (every six months) during normal times to assess gas supply security. We understand and support the requirement for information provision by industry to the NGEC in the event of an emergency. In addition, we support, in-principle, more regular information provision to the NGEC. However, we consider that the regularity, content and method of disclosure are all matters to be discussed and agreed by the NGEC and should not be prescribed in the protocol. There will undoubtedly be issues around the commercial nature of much of the information provided and processes will need to be in place to safeguard this information both during a gas emergency and if companies should agree to provide information in normal times. In order to protect the confidentiality of the information provided, the NGEC should be established under the MCE and not as part of the Australian Energy Market Commission (AEMC) because of the broad information sharing provisions that apply to the AEMC. In addition, as emergency powers will be executed by Ministers and not by the AEMC, it is more appropriate for the NGEC to be established under the MCE. We do not support continuous information provision in normal times, as outlined in the Central Agency Option.

The options paper makes value judgments about the relative merits of each of the options. In particular, it makes a range of assumptions around the cost of each option. The NGEC is deemed to be significantly more expensive than the Lead Agency option. This assumption ignores the amount of work that still needs to be undertaken under any option to develop effective processes; curtailment tables; agreed responses to emergency scenarios; information provision; and protocol testing procedures. The total cost of this will be similar under each option but will partly be borne by industry under the NGEC (given that industry resources will be directed to these tasks). We do not consider that the NGEC will require an on-going secretariat similar to that of NOSEC. In particular, the NGEC's main resource requirement would be the organisation of meetings twice a year and the testing of emergency arrangements. This cost would not differ significantly from that of the Lead Agency option. If specific areas of work are required, then this could be competitively tendered out to organisations with relevant emergency management experience, such as VENCORP, REMCO, GMCO or NEMMCO, rather than retaining the ongoing cost of a secretariat. We do not support the level of cost that would be involved in maintaining the Central Agency option – particularly as the perceived benefits are dubious. It is not clear to us that the Central Agency option would result in a highly competent and reliable vehicle for emergency management that would have a greater state of preparedness for emergencies – particularly if the Central Agency was a bureaucratic structure removed from practical industry experience and exposure to commercial realities.

While there are attractive elements to each of the options, we consider that the NGEC option represents the best opportunity to co-operatively take forward gas emergency management arrangements. The degree of industry involvement in the NGEC will result in greater industry buy-in to the arrangements and a greater level of technical expertise in the development of these arrangements. We therefore consider that the initial protocol should focus on the mode for developing and delivering the emergency arrangements, as set out in

this letter, with the operational detail of these arrangements to be developed once an agreed mechanism is in place. Emergency response arrangements will need to evolve over time, as the market changes and grows, and as the system becomes increasingly interconnected. The protocol should not preclude recognition of these changes and should also take account of the different emergency response requirements of both interconnected and stand alone jurisdictions. At this stage, the protocol cannot be a “one-size-fits-all” approach. The emergency response arrangements will need to be tested regularly (possibly every 6 months) as the inevitable changes to the market will affect how an emergency should be addressed.

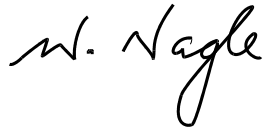
The paper notes that industry associations may be well placed to represent industry on the NGEC. While we would certainly support the NGEC structure and would be happy to facilitate the process, we consider that it would be individual company representatives who would be best placed to develop the emergency management structures and to provide advice to Ministers during a gas emergency. It would be beneficial if, in the next round of consultation, the SCO could obtain clear legal advice on any commercial liability issues that industry could face under each of the three options.

We would be happy to discuss any of these issues with you in more detail.

Yours sincerely



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