

**Application for interim and final
authorisation under s88(1) of the
*Competition and Consumer Act 2010 (Cth)***

Lodged by:
Australian Energy Market Operator
on behalf of itself and energy market participants in
Australia

public version
15 October 2021

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1. Summary

1.1. Background

This application is made to the Australian Competition and Consumer Commission (**ACCC**) by the Australian Energy Market Operator Limited (**AEMO**), the independent market and system operator. AEMO manages electricity and gas markets and systems across Australia to ensure Australians have access to reliable,¹ secure,² affordable and sustainable energy. AEMO's members include both government and industry participants.

The application is made on behalf of:

- AEMO and its related bodies corporate;
- participants in Australian electricity markets and participants with a registration exemption for the National Electricity Market (**NEM**) and their related bodies corporate³ (**AEMO Industry Participants**); and
- other entities that become participants registered in the NEM, participants with a registration exemption for the NEM, or participants registered in the Western Australian Electricity Market (**WEM**), as notified by AEMO to the ACCC (**Future AEMO Industry Participants**).

In 2020, in response to the COVID-19 outbreak, AEMO applied for authorisation on behalf of itself, AEMO Industry Participants and any Future AEMO Industry Participants, to engage in conduct to ensure the ongoing safety, security and reliability of Australia's gas and electricity systems. Interim authorisation was granted on 3 April 2020 and final authorisation was granted on 17 September 2020 (the **2020 Authorisation**).

The 2020 Authorisation expired on 31 May 2021. Since May 2021, there has been a resurgence of the COVID-19 pandemic, particularly in New South Wales and Victoria, and border restrictions between States and Territories have been re-imposed. As a result, the threats that the COVID-19 pandemic presents to reliability and security of Australian energy systems have re-emerged. In particular, AEMO and AEMO Industry Participants are concerned about the potential impact on electricity system maintenance and the potential for outages as we head into the critical summer period. These risks may arise for example from:

- 1.1.1. essential workers and contractors who perform regular or emergency maintenance and repairs of critical infrastructure may become unwell with the virus or otherwise be required to self-isolate;
- 1.1.2. State, Territory and international border restrictions create barriers to essential workers and contractors being able to travel to perform regular or emergency maintenance and repairs of critical infrastructure; and/or
- 1.1.3. disruption to local and global supply chains as a result of the pandemic may result in shortages of parts, equipment or other essential resources that are necessary to produce and supply electricity.

¹ Reliability refers to the capacity of the energy system to produce and transport energy of a certain quality that will meet the demand for energy of end-users.

² Security refers to the technical and operational resilience of an energy system. That is the ability for the interconnected networks and connected supply facilities to continue to operate within their defined technical limits. Electricity systems must be operated with a 'buffer' that accounts for the occurrence of a credible contingency.

³ The participants and members registered, or with an approved exemption, in respect of markets and systems operated or managed by AEMO can be found in the lists at the following links:

- <https://www.aemo.com.au/energy-systems/electricity/national-electricity-market-nem/participate-in-the-market/registration>
- <https://aemo.com.au/energy-systems/electricity/wholesale-electricity-market-wem/participate-in-the-market/information-for-current-participants/participants-registered-in-the-wem>

These participants and members registered and exempted as at 7 October 2021 are listed in Appendix B of this application.

As a result, AEMO seeks urgent interim and final authorisation under section 88(1) of the *Competition and Consumer Act 2010* (Cth) (**CCA**) on behalf of itself, AEMO Industry Participants and Future AEMO Industry Participants to engage in the conduct described in section 3 of this application (the **Proposed Authorisation**). The conduct for which authorisation is sought, relates specifically to the maintenance in the electricity industry and is narrower than the 2020 Authorisation, which also applied to the gas industry and to a broader range of Proposed Conduct.

The conduct the subject of the application is intended to assist AEMO, AEMO Industry Participants and Future AEMO Industry Participants to work together as required to ensure the safety, security and reliability of Australia's energy systems and to support continued electricity supplies to the economy and to the community notwithstanding the pandemic.

1.2. Application for urgent interim authorisation

As discussed in section 3.3 below, AEMO requests that the ACCC grant interim authorisation to enable AEMO, AEMO Industry Participants and Future AEMO Industry Participants to work together as soon as possible and take immediate steps that may be required to ensure the ongoing safe, secure and reliable supply of electricity.

2. Parties to the Proposed Conduct

2.1. Applicant

Name, address (registered office), telephone number and ACN	Contact person's name, position, telephone number and email address	Description of business activities
Australian Energy Market Operator (AEMO) Level 22, 530 Collins Street Melbourne Vic 3000 ABN: 94 072 010 327	Brett Hausler Chief Governance Officer & General Counsel AEMO [REDACTED] [REDACTED]	Operation of Australian electricity and gas markets and systems

2.2. Email address for service of documents in Australia

Ted Hill
Partner
Allens

[REDACTED]

[REDACTED]

2.3. Other Persons who propose to engage in the Proposed Conduct

As noted above, AEMO makes this application on behalf of itself, AEMO Industry Participants and any Future AEMO Industry Participants.

3. The Proposed Conduct

3.1. Overview

AEMO, AEMO Industry Participants and Future AEMO Industry Participants seek authorisation to discuss, enter into or give effect to any contract, arrangement or understanding between them, or engage in any conduct, related to:

- 3.1.1. (**Co-ordinating repairs and maintenance**) planning for and/or minimising any disruptions to electricity supply, for example, by coordinating scheduling of any repairs, maintenance and other works requiring outages;
- 3.1.2. (**Sharing essential personnel**) sharing information and/or entering into common arrangements in relation to essential employees and contractors to ensure there are sufficient personnel to maintain and operate electricity infrastructure;
- 3.1.3. (**Sharing essential inputs**) sharing information about the availability of, and/or entering into arrangements to share, essential inputs for electricity production, generation, transmission, distribution and supply systems and infrastructure, such as parts, equipment or specialised resources necessary for essential maintenance, as well as other consumable materials necessary for the operation of their facilities (but in all cases excluding fuel for thermal generators); and
- 3.1.4. (**Sharing information regarding ongoing operation**) sharing of information related to the ongoing availability, performance and/or operation of their facilities and any risks to ongoing availability, performance and/or operation,

provided in each case, the purpose for doing so is to ensure the safe, secure and reliable operation of Australia's energy systems and minimise the risk of any electricity outages during the pandemic (the **Proposed Conduct**).

Importantly:

- the Proposed Conduct would be limited to:
 - (i) discussions, conduct, contracts, arrangements and/or understandings to which AEMO, the independent market and system operator, is either a party or has facilitated; or
 - (ii) discussions, conduct, contracts, arrangements and/or understandings to which AEMO is not a party but which are carried out for the purposes of implementing (i) above;
- the Proposed Conduct would be limited to:
 - where discussions relate to a specific state or territory jurisdiction, discussions attended by a senior officer of the relevant state or territory government department with responsibility for energy, or their delegate; or
 - where conduct, contracts, arrangements and/or understandings relate to a specific state or territory jurisdiction, conduct, contracts, arrangements and/or understandings which have been agreed to by, or arise out of a discussion attended by, a senior officer of the relevant state or territory government department with responsibility for energy, or their delegate;
- the Proposed Conduct does not involve entering into any contracts, arrangements or understandings regarding the wholesale or retail price of energy or the supply or acquisition of gas, that would rely on the authorisation. Nor is it intended that AEMO, AEMO Industry Participants and Future AEMO Industry Participants would share confidential information relating to retail pricing matters, cost or profits;

- the Proposed Conduct is not compulsory, and any AEMO Industry Participant or Future AEMO Industry Participant can opt out of any proposed collaboration the subject of this application;
- the Proposed Conduct is a temporary measure only to manage the impacts of the COVID-19 pandemic.

3.2. Proposed conditions of Proposed Authorisation

AEMO proposes the following conditions apply to the Proposed Authorisation:

- **Condition 1: Reporting Requirements.** AEMO must comply with the reporting and communications protocol attached at Appendix A.
- **Condition 2: Agreements not to endure beyond authorisation period.** Any contract, arrangement or understanding entered into in reliance on the Proposed Authorisation must provide for its immediate termination (other than any provisions dealing with ongoing confidentiality obligations) upon the expiry or revocation of the Proposed Authorisation.

These conditions are relevantly identical to Conditions 1 and 3 that applied to the 2020 Authorisation.

For completeness, we note that:

- Condition 2, related to the operation of LNG producers and is not relevant to the Proposed Authorisation which is limited to electricity and does not apply to the gas industry; and
- Condition 4, related to the mechanism to add additional parties to the authorisation. An alternative approach to the definition of Future AEMO Industry Participants is proposed and if accepted by the ACCC, means Condition 4 is not required.

3.3. Application for interim authorisation

AEMO seeks interim authorisation for the Proposed Conduct on an urgent basis so that AEMO, AEMO Industry Participants and Future AEMO Industry Participants can work together immediately to ensure the reliability of electricity supplies during the pandemic. AEMO submits that urgent interim authorisation is justified for the following reasons.

- 3.3.1. The supply of electricity is essential to consumers. Disruptions of electricity caused by the pandemic would adversely affect consumers and consumer sentiment, businesses, the economy and the provision of essential services by governments. Such disruption could primarily occur as a result of three factors:
- (i) essential workers or contractors responsible for maintenance or repairs becoming unavailable as they are unwell and/or required to self-isolate as a result of COVID-19 and/or refusing to vaccinate;
 - (ii) State, Territory and international border restrictions resulting in essential workers and contractors being unable or unwilling to travel to perform regular or emergency maintenance and repairs of critical infrastructure; and/or
 - (iii) possible shortages in parts, equipment or other essential resources as a result of disruptions to local and global supply chains.
- 3.3.2. The Proposed Conduct will allow AEMO, AEMO Industry Participants and Future AEMO Industry Participants to work together immediately to manage the above matters and ensure the ongoing safe, secure and reliable operation of Australia's energy systems during the pandemic. For example, it would enable AEMO, AEMO Industry Participants and Future AEMO Industry Participants to:
- (i) co-ordinate their maintenance activities so as to minimise the risk of supply shortfalls;

- (ii) share and co-ordinate their use of essential workers and contractors to address risks created by workers being required to isolate and border restrictions; and
- (iii) share and co-ordinate their use of parts, equipment and other essential resources necessary for maintenance activities.

3.4. Rationale

(a) Challenges posed by COVID-19

COVID-19 threats to maintenance

As a direct result of the COVID-19 pandemic, there are a number of circumstances that threaten the completion or timely completion of scheduled and/or emergency maintenance to Australia's electricity systems:

- **border controls and quarantine:** electricity industry maintenance often requires a highly specialised workforce. Ordinarily, specialist contractors will travel between States to undertake electricity maintenance work. In addition, international subject matter experts will travel to Australia to oversee and undertake electricity industry maintenance. Border restrictions and quarantine requirements mean that interstate teams and international specialists may be unable or unwilling to travel, must quarantine for extended periods if they do travel or are unable to travel quickly, for example, in response to emergency maintenance requirements;
- **health impacts on workforce:** essential workers or contractors responsible for maintenance or repairs may become unavailable as a result of being unwell due to COVID-19 or being required to isolate as a result of being a close contact. In some circumstances employees or contractors refusing to vaccinate may not be able to perform maintenance and repairs. Unavailability for these health reasons has the potential to unexpectedly disrupt planned maintenance and make emergency maintenance more difficult to undertake in a timely way;
- **parts shortages:** disruptions to local and global supply chains due to COVID-19 create risks of shortages in parts, equipment and other essential resources. There are also challenges to the timely delivery of such parts, equipment and essential resources. These shortages and delivery issues present challenges to both planned and emergency maintenance and repairs.

Maintenance backlog due to COVID-19

During the course of 2020, a number of large scheduled maintenance projects were deferred until 2021. The deferrals occurred for a number of reasons including: lack of available specialist parts and components (due to global supply chain issues), inability to access international subject matter experts, contractor unavailability (resulting from border restrictions and quarantine requirements) and a number of emergency unplanned outages due to equipment failure. As a result, there is now a large volume of scheduled maintenance required to be undertaken on Australian electricity systems. Such a large volume of maintenance needs to be carefully managed to ensure supply into the grid continues to meet consumer demand.

AEMO notes that typically maintenance is scheduled outside the 'summer period' (November to March), as the energy system is under considerable stress during the 'summer period' and all plant is likely to be required to be fully operational to meet consumer demand. The current maintenance backlog is compounded by the fact that we are now entering the 'summer period', where limited maintenance can occur. As a result of the impact of the COVID-19 pandemic, there will have been almost two years of reduced maintenance across the national generator fleet (since before 'summer

period' 2019). AEMO expects that a hot summer could stress plant, increasing the risk of unplanned maintenance which increases the likelihood of forced outage rates.

(b) Public benefits of public authorisation

The Proposed Authorisation will enable AEMO, AEMO Industry Participants and Future AEMO Participants to work together to seek to address the challenges to maintenance and security of supply posed by COVID-19. Security of supply is a very significant public benefit. The Proposed Authorisation would enhance security of supply in the following ways:

- ***coordinating repairs and maintenance:*** the Proposed Authorisation would allow electricity industry participants to coordinate scheduling of repairs, maintenance and other works requiring outages. Co-ordinating outages obviously reduces the risk of electricity supply being inadequate to meet demand on given days. By way of example only, if a generator requires an outage unexpectedly for emergency repair work, other generators might agree to reschedule their planned maintenance to avoid risks to system security;
- ***sharing essential personnel:*** the Proposed Authorisation would allow electricity industry participants to share information and enter common arrangements in relation to essential employees and contractors to maintain energy infrastructure. By way of example only, if one generator brings a specialist team from interstate or overseas to undertake a particular type of work, that generator may share information about the contractors being in the area with other generators. Other generators may wish to take advantage of the contractors being in the area by undertaking similar works themselves. The generators may reach an agreement to share the time of the contractors and the costs of their visit to the area;
- ***sharing essential inputs:*** electricity industry participants would be able to share information about the availability of and/or enter into arrangements to share essential inputs. For example, and as the Commission is aware, through discussions held under the interim 2020 Authorisation, one generator was able to quickly locate an alternative local supplier of a major part that would ordinarily be imported from Germany but was unavailable for importation due to COVID-19 pandemic related restrictions in Europe. This avoided an extended outage which was at risk of overlapping with other scheduled outages, giving rise to risks of energy outages. The sharing of this information (which does not ordinarily occur, even via AEMO) also caused other generators to consider their supply chains for their outages earlier than originally planned, to avoid the risk of delays for their outages;
- ***sharing information regarding ongoing operation:*** electricity industry participants would be able to share information related to ongoing availability, performance and operation of their facilities, including any risks to ongoing availability, performance and/or operation. This information is potentially vital in relation to scheduling of maintenance works to ensure that risks are not created to system security.

In its Final Decision in relation to the 2020 Authorisation, the Commission accepted the significant public benefits arising from coordination of maintenance activities in the context of the COVID-19 pandemic:

- 4.19 Travel restrictions, border closures, and other impacts on production are likely to impact on critical maintenance activities in the energy system. Maintenance at facilities such as thermal generators can involve significant temporary workforces and highly specialised foreign labour. These workforces may not be available, or may be significantly restricted in their movements during the COVID-19 pandemic. Core components are often imported from specialised manufacturers, and these supply chains may be disrupted due to COVID-19.
- 4.20. The COVID-19 pandemic is likely to make maintenance activities more difficult to plan for, and has the potential to cause delays and extended outages at specific generators. Such

delays or outages at specific generators would impose costs to those generators. These costs will likely be passed through to consumers.

- 4.21. The Proposed Conduct is likely to reduce the potential for COVID-19 to cause delays or extended outages at specific generators. Participants should be able to coordinate a maintenance schedule that minimises the potential for delays to cascade and create overlapping, expensive outages. Sharing information will better allow Participants to find relevant labour and components in the unique COVID-19 circumstances.
- 4.22. While in normal market conditions, the ACCC would generally take the view that competition between generators is likely to be superior in allocating maintenance labour and components, the COVID-19 pandemic may cause acute supply issues to such markets, such as forcing large teams of skilled labour to quarantine, or become sick, for extended periods of time. Given the potentially high cost of delays to maintenance, the ACCC considers that there is public benefit in minimising these costs during the pandemic.

(c) Experience of 2020 Authorisation

In AEMO's view, the 2020 Authorisation worked well to allow AEMO and electricity industry participants to meet, have open discussions and agree solutions to address the challenges posed and risks created by the COVID-19 pandemic, particularly in relation to maintenance activities.

Since the expiry of the 2020 Authorisation, there is no longer the same ability to have industry participants meet, hold discussions and reach agreement on solutions to maintenance challenges posed by the COVID-19 pandemic. Consistently with its statutory role, AEMO has continued to discuss particular maintenance issues with AEMO Industry Participants on a bilateral basis. This system, involving as it does bilateral information exchange, rather than industry agreement, is inadequate to address the threats currently posed by the COVID-19 pandemic, in particular because:

- it operates at a high level in relation to the scheduling of maintenance only and does not allow for information exchange and coordination between industry participants, for example, in relation to more granular discussions about the availability and sharing of contractor crews or spare parts; and
- it is slow and cumbersome as a result of not allowing agreements and give and take between industry participants.

For completeness, we note that the system described above that currently applies in relation to electricity is a broadly similar to that which applies in relation to gas industry maintenance. AEMO has, however, more specific statutory powers and functions in relation to gas industry maintenance than in the electricity industry. The Proposed Authorisation relates to the electricity industry only, not the gas industry.

Broadly, AEMO's powers to compel electricity industry participants to disclose detailed information about their operations is relatively limited. Where AEMO receives confidential information about one industry participant, it is generally not permitted to disclose that information to other industry participants, except, to the limited extent specifically provided for the Rules (eg, through the PASA process) or unless necessary to prevent an imminent threat to system security (a very high threshold). AEMO also has some powers to intervene in industry operations (for example, to direct maintenance to be rescheduled or to direct that a generator come on) but only where there is an imminent threat to system security. Finally, AEMO has no or limited formal powers in relation to a number of categories of conduct contemplated by the interim authorisations, such as sharing of essential personnel or essential inputs.

3.5. Provisions of the CCA which might apply to the Proposed Conduct

AEMO Industry Participants may compete in relation to:

- the generation, transmission, transportation and/or supply of electricity in Australia; and/or
- the procurement of maintenance services, spare parts and/or equipment to supply electricity in Australia.

Accordingly, in the absence of authorisation, the Proposed Conduct risks giving rise to contraventions of the CCA, including by provisions of the CCA relating to:

- cartel conduct (Division 1 of Part IV) (ss 45AD, 45AF, 45AG, 45AJ, and 45AK of the CCA); or
- contracts, arrangements or understandings, concerted practices, exclusive dealing and other conduct that have the purpose, effect or likely effect of substantially lessening competition (ss 45(1), 46(1) and 47(1) of the CCA).

3.6. Term of authorisation sought

AEMO seeks authorisation for itself, AEMO Industry Participants and any Future AEMO Industry Participants for the Proposed Conduct on a temporary basis in order to ensure the safe, secure and reliable supply of electricity notwithstanding the pandemic. AEMO seeks authorisation to engage in the proposed conduct for 12 months from the date of an interim determination by the ACCC, noting that the ACCC could under section 91B of the CCA revoke the authorisation should there be a material change in circumstances (eg, the effects of the pandemic subside).

4. Persons who may be directly impacted by the Proposed Conduct

The persons who would be directly impacted by the Proposed Conduct include customers, suppliers and staff of AEMO, AEMO Industry Participants and any Future AEMO Industry Participants.

5. Counterfactual

In the absence of the Proposed Conduct, AEMO, AEMO Industry Participants and Future AEMO Industry Participants may be unable to coordinate certain of their activities in order to ensure the safe, secure and reliable supply of energy during the pandemic.

In particular, while AEMO already has certain emergency powers to deal with immediate threats to power system security and interruptions to supply, the existing emergency management arrangements (including those reflected in the national electricity rules which enable AEMO to intervene to ensure power system security in certain circumstances) are not well suited to dealing with the needs of the current pandemic situation and will need to be adapted. This includes less reliance by AEMO on bilateral consultations with, and directions to, individual AEMO Industry Participants and the adoption of a more coordinated approach with those parties in order to take urgent action.

Accordingly, without authorisation, AEMO submits that the ability of AEMO, AEMO Industry Participants and Future AEMO Industry Participants to address issues that have the potential to impact on the safety, security and/or reliability of Australia's energy supply during the pandemic is likely to be less effective and less timely than if they are permitted to work together in the manner proposed in this application.

6. Public benefit

AEMO submits that the Proposed Conduct will result in significant public benefits, as outlined in section 3.4(b) above.

7. Public detriment

AEMO submits that the Proposed Conduct will not lessen competition in wholesale electricity markets. The overall purpose and effect of the Proposed Conduct is to maximise supply by reducing outages for the benefit of both competition and consumers. Furthermore as the Commission found in its Final Decision in relation to the 2020 Authorisation:

- the Proposed Conduct does not involve entering into contracts, arrangements or understandings regarding the wholesale price of energy; and
- any risk of information asymmetry between parties involved in the Proposed Conduct and parties not involved is negligible given the Medium Term Projected Assessment of System Adequacy process (*MTPASA*) provides for the publication of generator availability information at the individual participant and plant unit level.

AEMO also submits that the Proposed Conduct will not lessen competition in markets for the acquisition of maintenance services, at least in any meaningful way for a number of reasons:

- the markets in which maintenance services are acquired are national or even international in scope; and
- the Proposed Conduct involves a possible temporary exchange of information and sharing of maintenance services.

In addition in relation to both markets:

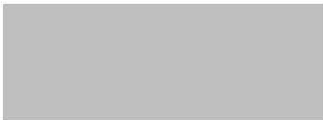
- the Proposed Conduct does not extend to entering into any agreement regarding the wholesale or retail price of energy. AEMO Industry Participants who supply electricity on a wholesale or retail basis will continue to compete in relation to price. Additionally, persons engaging in the Proposed Conduct (such as attending meetings and discussions) are not the same persons who are involved in the trading markets for electricity;
- the Proposed Conduct is not compulsory, and any AEMO Industry Participant or any Future AEMO Industry Participant can opt out of any proposed collaboration the subject of this application;
- the Proposed Conduct is limited to discussions, conduct, contracts, arrangements and/or understandings to which AEMO, the independent market and system operator, is either a party or has facilitated (or to which AEMO is not a party but which are necessary for implementation);
- the period of authorisation is for a limited period of 12 months only (from the date of the ACCC's interim determination) and can be discontinued in the event that the effects of the pandemic subside at an earlier date. This is no more than is reasonably necessary to address any energy supply challenges that could potentially arise as a result of the COVID-19 pandemic.

8. Declaration by applicant

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the Criminal Code (Cth).



Brett Hausler

Chief Governance Officer & General Counsel, Australian Energy Market Operator

This 15th day of October 2021

Appendix A: Reporting and Communications Protocol

Purpose

1. This is the Reporting and Communications Protocol referred to in condition [1] of the interim authorisation granted by the ACCC on [DATE] 2021 in respect of proposed arrangements between AEMO and certain electricity industry participants for the purpose of dealing with the effects of the COVID-19 pandemic on Australia's energy systems (*Interim Authorisation*).
2. Capitalised terms used but not defined in this document have the meaning given in the Interim Authorisation.

AEMO's reporting commitments

3. While AEMO engages in conduct enabled by the Interim Authorisation, AEMO will use its best endeavours to provide no later than the first Thursday of each month (or if not a business day in Sydney, on the next business day) a report to the ACCC setting out each material contract, arrangement, understanding or decision made by AEMO and AEMO Industry Participants (and any Future AEMO Industry Participants) in the previous month that involves the Authorised Interim Conduct, including:
 - a) the dates of all material decisions, contracts, arrangements or understandings formed that rely on the Interim Authorisation,
 - b) the parties to each material decision, contract, arrangement or understanding formed that rely on the Interim Authorisation,
 - c) what topics were discussed at meetings where those material decisions, contracts, arrangements or understandings were formed, and/or the material content of those contracts, arrangements, understandings or decisions, including key details such as the relevant products or services, quantities, timings, and financial or other compensation,
 - d) a description of the issues arising from the COVID-19 pandemic that the relevant decision, contract, arrangement or understanding seeks to address and how it will be addressed,
 - e) where possible a non-confidential version of the report for publication on the public register

Information requested and concerns raised by the ACCC

4. The ACCC may request additional information regarding conduct enabled by the Interim Authorisation. AEMO, any AEMO Industry Participant and any Future AEMO Industry Participant must promptly provide any further information requested by the ACCC.
5. An ACCC representative may elect to attend any meeting or call where it is intended that material decisions, contracts, arrangements or understandings may be formed as an observer for the purpose of observing that the relevant conduct of those groups which might give rise to concerns under Part IV of the CCA notwithstanding the Interim Authorisation granted on [DATE] 2021. Where reasonably practicable, AEMO will provide the ACCC with advance notice as soon as reasonably practicable of any meetings or calls (including recurring meetings and ad hoc meetings) where material decisions, contracts, arrangements or understandings are expected to be formed. The ACCC will give AEMO notice in advance of its proposed representative at the relevant meeting or call.

6. Any notice or request for information under paragraphs 4 to 5 should be provided to the contact person nominated by AEMO for the purposes of this Reporting Protocol.

Confidentiality

7. Unless stated otherwise, AEMO asks that the ACCC receive any information provided under this Reporting Protocol on a confidential basis in accordance with the ACCC's statutory obligations on the basis set out below:
 - a) there is no restriction on the internal use, including future use, that the ACCC may make of the information consistent with its statutory functions;
 - b) the confidential information may be disclosed to the ACCC's external advisors and consultants on condition that each such advisor or consultant is informed of the obligation to treat the information as confidential; and
 - c) the ACCC may disclose the confidential information to third parties (in addition to its external advisors or consultants) if compelled by law or in accordance with section 155AAA of the CCA.
8. Nothing in paragraph 7 limits AEMO's obligations under paragraph 3 above.

Appendix B: AEMO Industry Participants

Please see the excel spreadsheet titled '*Appendix B: AEMO Industry Participants as at 7 October 2021*'. As at 7 October 2021, the AEMO Industry Participants are:

- participants registered in the NEM (see tab '*1 NEM registered participants*');
- participants with a registration exemption for the NEM (see tab '*2 NEM registration exemptions*'); and
- participants registered in the WEM (see tab '*3 WEM registered participants*').