

**Central Petroleum Mereenie Pty Ltd as trustee for the  
Central Petroleum Mereenie Unit Trust  
Macquarie Mereenie Pty Ltd  
Central Petroleum Limited**



**Application for Authorisation to the Australian Competition and  
Consumer Commission**

28 July 2021

## 1 Introduction

This application is made to the Australian Competition and Consumer Commission (**ACCC**) under section 88(1) of the *Competition and Consumer Act 2010* (Cth) (**CCA**) for authorisation to engage in conduct which, in the absence of the authorisation, might be perceived as contravening Part IV of the CCA (the **Application**).

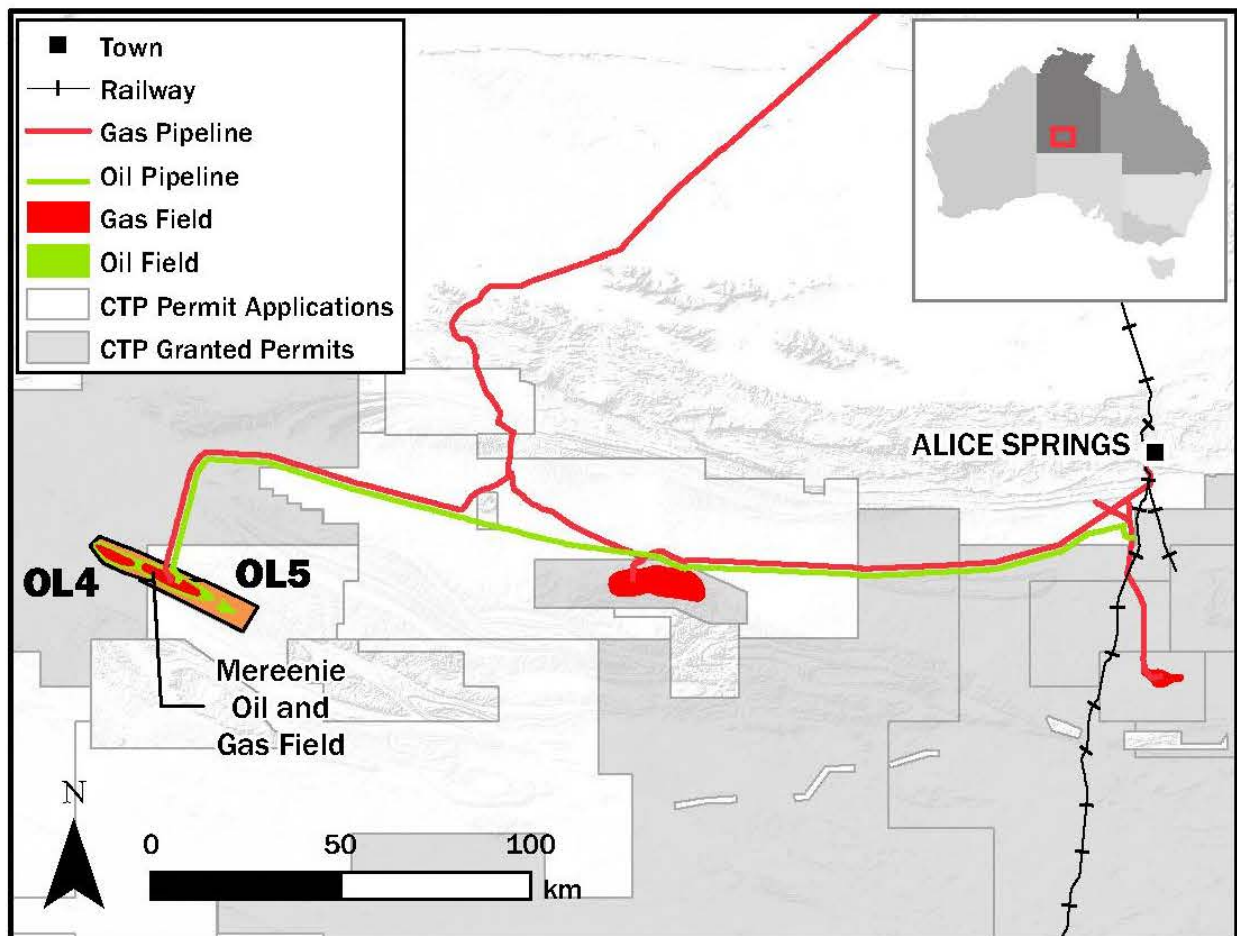
The Application is made on behalf of the following parties:

- (a) Macquarie Mereenie Pty Ltd (**Macquarie Mereenie**); and
- (b) Central Petroleum Mereenie Pty Ltd as trustee for the Central Petroleum Mereenie Unit Trust (**CPM**),  
together the participants in the Mereenie joint venture; and
- (c) Central Petroleum Limited, as operator of the Mereenie joint venture.

(together the **Applicants**).

The Mereenie joint venture's sole business is production of oil and gas from the Mereenie field in the Northern Territory, and the Applicants seek authorisation for joint marketing of gas produced from that field.

The location of the Mereenie field, and its connection to the Amadeus (Alice Springs to Darwin) gas pipeline is shown below.



Source: Central Petroleum Limited website

As CPM has recently announced an agreement to sell-down a 17.5% interest in the joint venture to a subsidiary of New Zealand Oil and Gas Limited (**NZOG**) and a 7.5% interest in the joint venture to a

subsidiary of Cue Energy Resources Limited (**Cue**) (the **Central Petroleum Sell-down**),<sup>1</sup> the Applicants are also seeking extended coverage for the authorisation.

In particular, authorisation is sought for:

- (d) the named Applicants;
- (e) NZOG Mereenie Pty Limited;
- (f) Cue Mereenie Pty Ltd; and
- (g) their respective related bodies corporate.

The Applicants also seek for the authorisation to apply to successors in title (i.e. future participants in the Mereenie joint venture), such that joint marketing continues to receive the protection of the authorisation if there is a subsequent transfer or sell-down of interests in the Mereenie joint venture. That extension is sought out of concern that giving effect to existing jointly marketed contracts may, without such an extension, cease to be fully covered by the authorisation. However, to the extent the ACCC has concerns with that broader scope of authorisation, the Applicants would be comfortable with the authorisation in respect of such future Mereenie participants (whose identity is currently unknown) being conditional on the ACCC providing its prior approval for the new participants inclusion (with such a condition being highly preferable to such a participant having to apply for a new authorisation).

## 2 Background and Context

### 2.1 Current Arrangements and the Previous Authorisation

Much of the gas produced from the Mereenie field is currently sold subject to joint marketing arrangements.

Those joint marketing arrangements are permitted by a previous ACCC authorisation granted to the Applicants on 29 March 2018 (the **Previous Authorisation**).<sup>2</sup>

The Previous Authorisation was granted to authorise joint marketing with a period of 3 years, with any jointly marketed gas supply agreements entered into during this period to expire on or before 31 December 2028. The contracts constituting the majority of the jointly marketed volumes contracted during that period will expire by early 2023, with the last of the jointly marketed contracts expiring in early 2025,<sup>3</sup> such that the Applicants will need to market material uncontracted volumes which are outside the scope of the Previous Authorisation.

In summary, the Previous Authorisation was granted by the ACCC on the basis that:

- (a) such joint marketing was likely to result in public benefits in the form of:
  - (i) encouraging further development of the Mereenie field to occur sooner than it would otherwise; and
  - (ii) as a result, bringing forward supply of additional volumes of gas to customers;
- (b) joint marketing by the Applicants was not likely to result in public detriment because it would not materially enhance the Applicants' ability to supply gas at higher prices and/or less favourable terms and conditions than they would likely achieve with separate marketing due to constraints from alternative sources of supply; and

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<sup>1</sup> Central Petroleum, ASX Announcement, *Central Sale Underwrites Significant Investment in the Amadeus Basin*, 25 May 2021

<sup>2</sup> ACCC, *Determination – Application for authorisation AA1000398 in respect of joint marketing and supply of natural gas produced out of the Mereenie field*, 29 March 2018 (**Previous Authorisation Determination**)

<sup>3</sup> See the diagram in section 13 of this application for further information.

- (c) accordingly, the joint marketing was likely to result in a public benefit that would outweigh the likely public detriment from the proposed conduct.<sup>4</sup>

The ACCC's finding about the public benefits was principally based on the fact that, in the absence of authorisation, further development of the Mereenie field would not proceed until the participants had negotiated a life of field gas balancing arrangement. That was the case, because the combination of the participants individually marketing gas and the interim gas balancing arrangements the parties were operating under had resulted in:

- (d) a significant and growing gas lifting imbalance (with CPM having overlifted material volumes), which was effectively hindering Macquarie Mereenie in being able to market its proportion of gas production; and
- (e) Macquarie Mereenie therefore not being incentivised to support further investment in or expansion of the Mereenie project where it did not have certainty that the increased volume would also facilitate the significant reduction of the lifting imbalance.

## 2.2 Experience of joint marketing during the Previous Authorisation

The Applicants consider the period since the Previous Authorisation was granted has clearly demonstrated the ACCC to be correct in being satisfied about the previous conclusions described above.

In particular, the Previous Authorisation aligned the Applicants commercial interests, which facilitated the Mereenie participants approving an expansion of the Mereenie field, with production from the Mereenie field expanded (with production capacity being increased from *[information redacted as confidential to the Applicants]*).

In addition, following the Previous Authorisation being provided:

- (a) significant volumes of Mereenie gas have been sold into the east coast gas market through the Northern Gas Pipeline (**NGP**), *[information redacted as confidential to the Applicants]*;
- (b) joint marketing made the offering of the Applicants more competitive with other gas suppliers through, enabling higher volumes of supply (both through aggregating each participants volumes and through removing the uncertainties about lifting constraints which arose in the past for each Mereenie participant from separately contracting);
- (c) the additional volumes provided by such joint sales have facilitated negotiation of short term arrangements to commence reduction of CPM's long term 'overlift' imbalance *[information redacted as confidential to the Applicants]*; and
- (d) there is absolutely no evidence that the Applicants have obtained prices above efficient market levels or that competition has lessened in any way as a result of the Applicants' joint marketing.

The Applicants submit that the information the ACCC has collected through its ongoing East Coast gas market inquiry will substantiate that position.

## 2.3 Greater future public benefits rely on further authorisation

The Applicants are conscious that while the Previous Authorisation has clearly resulted in the public benefits anticipated by the Applicants and the ACCC, and no anti-competitive detriment, the authorisation for joint marketing (outside of existing jointly marketed contracts) expired on 20 April 2021. While there are some ongoing gas supplies contracted which the Previous Authorisation still applies to, as noted

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<sup>4</sup> Previous Authorisation Determination at 14 and 17

above, there will be significant volumes of gas from the Applicants to market which are outside the scope of the Previous Authorisation.

Since the expiry of the Previous Authorisation, the Applicants have held off further joint marketing due to the desire for absolute regulatory certainty regarding CCA compliance. Since then neither participant has managed to enter into a 'firm' supply agreement on an individual basis and, in fact, each participants' experience in this interim period has been that their individual offerings are materially less attractive to customers than their previous joint offering.

The Applicants consider there would clearly be significant further public benefits derived by continuing the authorisation of Mereenie joint gas marketing for a further period.

The Applicants note there are significant additional gas resources in the Mereenie field which will support further expansion and production. Initial exploration has identified *[information redacted as confidential to the Applicants]* 2C contingent resources.<sup>5</sup> Subject to joint venture approval, Central Petroleum (as operator of the Mereenie field) is proposing an appraisal programme in the 'Mereenie Stairway' to prove up a portion of those contingent resources to 2P (proven and probable reserves) which can then support firm gas supply contracting. Subject to joint venture approval, the Mereenie Stairway appraisal would be intended for drilling in 2021 with production intended to be available for a marketing window from 2022.<sup>6</sup>

The Central Petroleum Sell-down also includes carried funding which could be utilised for CPM's share of funding for two such Mereenie Stairway appraisal wells, but joint venture approval remains necessary to proceed.

However, for the reasons set out in detail in this application, the Applicants consider that the further authorisation for joint marketing being sought:

- (a) is necessary to align the Mereenie participant's commercial incentives to facilitate:
  - (i) the Mereenie Stairway appraisal drilling being approved; and
  - (ii) the Applicants investing in further development and expansion of Mereenie field production following such appraisal;
- (b) will enhance greater Mereenie gas supply to customers in the east coast gas market (due to aligning investment incentives to increase production for Mereenie and increasing the volumes and certainty that the Applicants can offer customers);
- (c) will enable Mereenie to be a more effective competitor to incumbent suppliers;
- (d) will enhance the prospects of the Amadeus to Moomba Gas Pipeline (**AMGP**) which, as discussed in more detail below, will require a long term commitment from the Applicants to be foundation customers and therefore require long term firm gas sales from both participants to support that commitment – but once developed will deliver a significant public benefit by providing Northern Territory gas reserves a more efficient and direct connection to the southern parts of the east coast gas market where the gas shortfall is most pressing; and
- (e) will reduce transaction costs and produce efficiencies relative to separate marketing.

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<sup>5</sup> Central Petroleum Limited, ASX Announcement, *Mereenie and Palm Valley Reserves Upgrade*, 24 July 2020 (note references in that announcement are to Central Petroleum's 50% share).

<sup>6</sup> Central Petroleum Limited, ASX Announcement, *Mereenie and Palm Valley Reserves Upgrade*, 24 July 2020.

### 3 East Coast Gas Market – Future Shortfalls Risks and Supply Uncertainty

#### 3.1 Current East Coast Gas Market Supply/Demand

The East Coast gas shortfall is a continuing issue for the Australian power generation and manufacturing sectors, and the Australian economy more generally.

Since the development of the three Gladstone LNG facilities there has been significant pressure on domestic gas prices and supply, due to the high volumes of domestic gas production which are now exported as LNG.

In addition, the East Coast market is characterised by a number of other factors that significantly exacerbate the risk of a future gas shortfall:

- (a) declining gas production from some of the largest and long-standing gas fields (such as the Gippsland and Cooper Basin and Bass Strait);
- (b) continuing regulatory restrictions on development of new gas projects in a number of States (particularly from unconventional gas resources), which make it slow and difficult to bring new gas to market;
- (c) higher uncertainty in relation to future production levels of some of the existing and proposed unconventional gas projects (as evidenced by the reserve write-downs which have occurred on coal seam gas projects in recent times); and
- (d) relatively high gas pipeline transportation costs, which results in some limitations on the extent to which surplus gas supplying regions like Queensland the North Territory can produce gas to meet demand in the southern states.

A future gas supply shortfall would lead to higher prices, and jeopardise the businesses of commercial and industrial customers, threatening employment and economic activity at a time when Australia can ill afford it - in what remains a somewhat subdued and COVID-19 impacted economic environment.

In that context, recent Federal government announcements regarding the proposed National Gas Infrastructure Plan (**NGIP**) and 'gas-fired' economic recovery<sup>7</sup> have noted the economic imperative to bring on additional gas supply to meet Australia's domestic gas requirements.

In addition, recent reports by the ACCC and AEMO have provided further insight and analysis into the current state of the East Coast gas market.

#### 3.2 Commentary from the latest ACCC Gas Inquiry Report

As recognised in the ACCC's latest *Gas inquiry 2017-2025 Interim Report* from January 2021,<sup>8</sup> while there have been recent low oil and gas prices and a forecast of sufficient production to meet east coast demand in 2021:

- (a) the improvement in competitive conditions is fragile, with the 2021 outlook for southern states having tightened and remaining uncertain due to dependency on a high proportion of production from undeveloped 2P reserves;
- (b) the recent low prices have actually increased the supply risks facing the gas market over the medium term, with a number of producers having cut upstream expenditure and delayed the development of projects;

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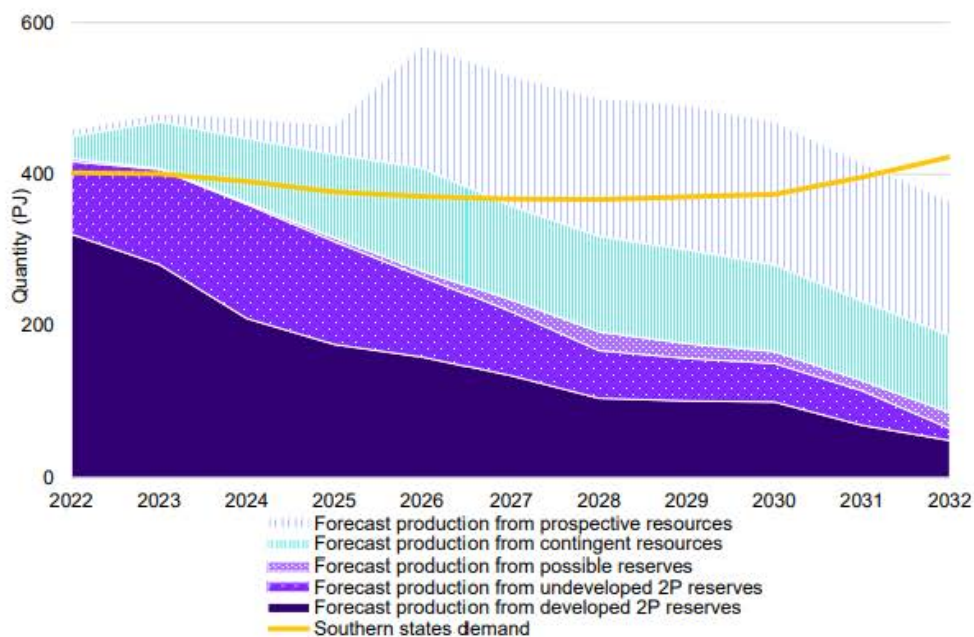
<sup>7</sup> Prime Minister, Minister for Energy and Emissions Reduction, and Minister for Resources, Water and Northern Australia, *Media Release – Gas-Fired Recovery*, 15 September 2020.

<sup>8</sup> ACCC, *Gas inquiry 2017-2025, Interim report*, January 2021.

- (c) the long term supply and demand outlook is uncertain, with forecast production from 2P reserves being insufficient to meet east coast demand from 2026 and the potential for a shortfall in southern states as early as 2024;
- (d) avoiding future supply shortfalls will require timely development of new sources of supply (together with north-south transportation infrastructure) and/or development of a LNG import terminal; and
- (e) there are material risks in relying on Queensland coal seam gas production to fill this shortfall because of material reserve write-downs (approximately 7,800 PJs over the last 3 years) and project development deferrals/cancellations, in addition to the control of much of the potential new sources of production being held by existing LNG producers.

The below chart from that Report shows the anticipated shortfalls in the southern states anticipated to arise in the near future:

**Chart 2: Forecast gas supply compared to forecast gas demand, southern states, 2022–2032**

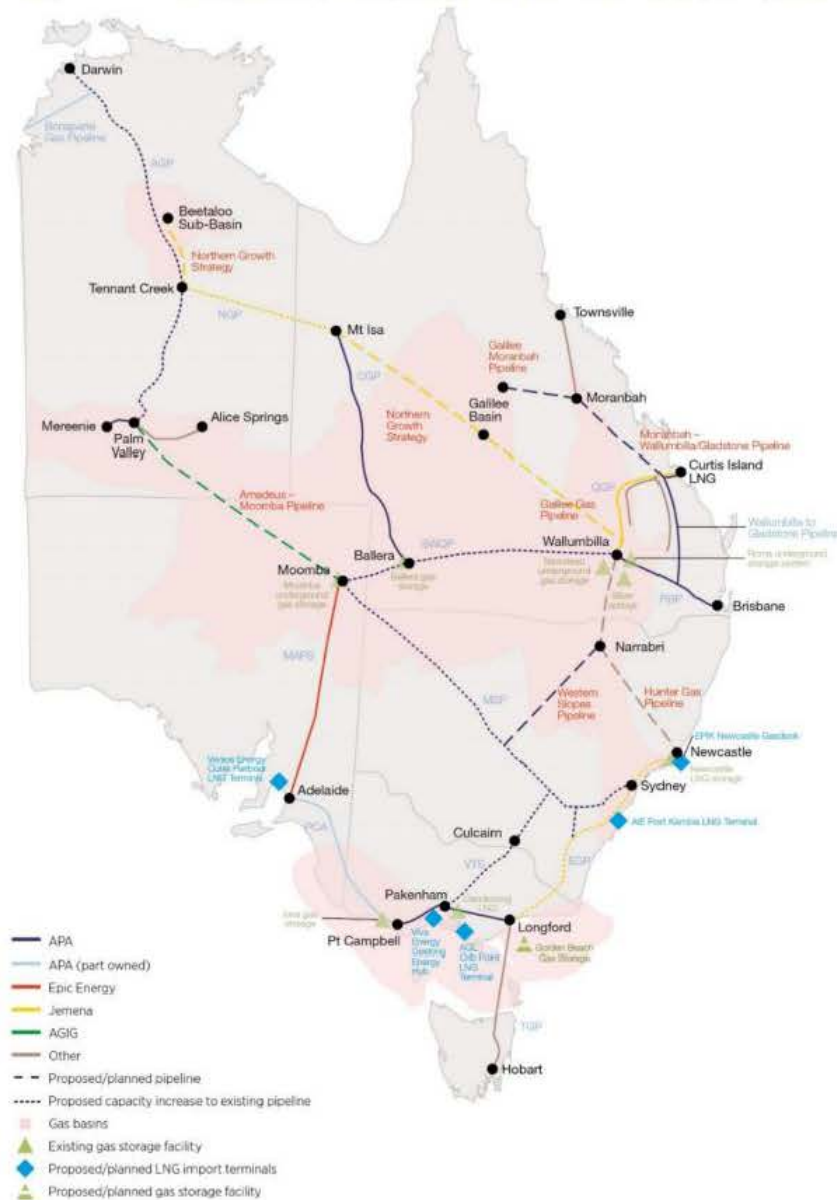


Source: ACCC analysis of data obtained from gas producers as at August 2020 and of forecast domestic demand (Central scenario) from AEMO's March 2020 GS00.

Note: Southern states demand includes demand by residential, commercial, and industrial customers, for gas powered generation and losses.

As is show on the map below (extracted from the ACCC's Interim Report), one of the potential north-south connections which could directly facilitate further gas supply to the southern States is the proposed AMGP (shown in the dotted green line below), which would allow both Amadeus Basin gas (in which the Mereenie field is located) and, in the future, Beetaloo Basin gas from the Northern Territory to be transported to the southern states.

**Figure 1: Location of larger potential new supply sources and infrastructure**



### 3.3 Commentary from the latest AEMO Gas Statement of Opportunities

Similarly, the Australian Energy Market Operator (**AEMO**)'s 2021 Gas Statement of Opportunities concluded:<sup>9</sup>

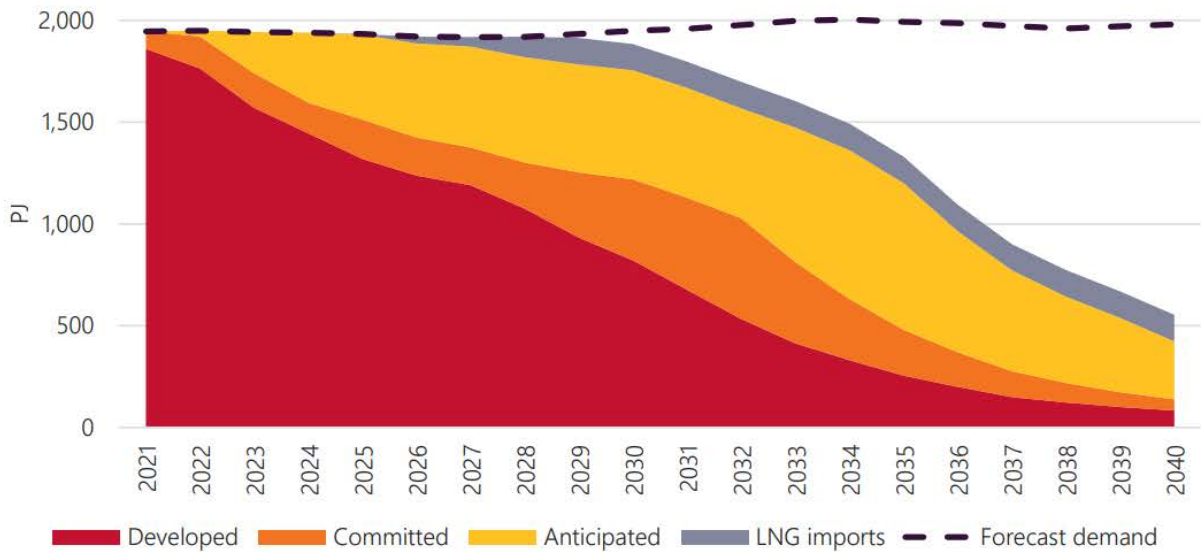
- (a) if there is delay in commissioning the Port Kembla LNG import terminal, southern supply scarcity risks emerge as early as winter 2023 under certain conditions;
- (b) there has been a rapid decline in producers' forecasts of maximum daily production from legacy southern fields; and
- (c) there are fewer new anticipated projects, with limited exploration investment incentivised in 2020.

The heavy dependence on conversion of identified reserves in anticipated projects into committed producing projects and LNG imports that AEMO identified is shown in the figure below:

<sup>9</sup> AEMO, *Gas Statement of Opportunities – For eastern and south-eastern Australia*, March 2021.



**Figure 2 Projected eastern and south-eastern Australia gas production (including export LNG), Central scenario, existing, committed, and anticipated developments, 2021-40 (PJ)**



### 3.4 Recent media commentary on east coast gas market shortage

In addition to those reports from the ACCC and AEMO from earlier in 2021, more recent media commentary has confirmed the continued supply tightness in the East Coast gas market and pressing need for additional domestic supply.

By way of example, the Applicants note each of the follow recent articles concerning these issues:

- (a) *Industry in shock as Vic gas prices hit record levels* (Australian Financial Review, 9 July 2021)
- (b) *ALP wants gas export cap as price soars* (Australian, 9 July 2021)
- (c) *Scott Morrison urged to cap gas exports to secure price* (Australian, 8 July 2021)
- (d) *Manufacturers raise the alarm over gas price surge* (Australian Financial Review, 6 July 2021)

each of which refers to shortages of supply for domestic gas users and resulting high domestic gas pricing.

In particular, the Applicants note the Chairman of the ACCC's quoted statement in the second of those articles that:

*"Clearly more supply is what is needed in the market. We need more gas exploration and production. We need more pipeline capacity as well. If we don't get that, we'll end up importing it."*

### 3.5 Conclusions

Accordingly, it is clear from the ACCC's and AEMO's recent consideration, and market experience as reflected in recent commentary that:

- (a) there are continued risks of an east coast gas supply shortfall, including during the period for which authorisation is sought;
- (b) the recent lower prices have actually increased the supply risks facing the East Coast Gas Market over the medium term, with a number of producers having cut upstream expenditure and delayed the development of projects;

- (c) even where there is theoretically currently sufficient supply, it is clear that supply is sufficiently tight that there are periods of real supply constraints and high spot prices, which will continue to recur regularly unless additional supply can be quickly brought on; and
- (d) timely additional supply from northern regions (including the Northern Territory) and related north-south pipeline infrastructure are important in avoiding both sustained shortfalls and intermittent supply constraints.

In the context of that environment, promoting the faster development of additional supply to the East Coast gas market from conventional gas resources in a jurisdiction which will permit that development, and facilitating greater connectivity of the Northern Territory's conventional gas resources to the southern parts of the east coast gas market where demand shortfalls will be felt, are significant public benefits.

## **4 Parties to the Proposed Conduct**

- 1. Provide details of the applicants for authorisation, including:*
  - 1.1 name, address (registered office), telephone number and ACN*
  - 1.2 contact person's name, position, telephone number and email address*
  - 1.3 a description of business activities*
  - 1.4 email address for service of documents in Australia*

### **4.1 Applicants**

As discussed in section 1 of this application, the Applicants are:

- (a) Macquarie Mereenie and CPM as the participants in the Mereenie joint venture; and
- (b) Central Petroleum Limited as operator of the Mereenie joint venture.

The Mereenie joint venture produces gas from the Mereenie onshore oil and gas field in the Northern Territory and sells such gas to customers in the Northern Territory and broader east coast gas market (including through the NGP).

Further details of each of the Applicants, their business and appropriate contacts in respect of this Application are provided below.

### **4.2 Central Petroleum**

Central Petroleum Limited is an oil and gas explorer and producer with a primary focus on onshore oil and gas production in the Northern Territory and supplying the Australian domestic gas market.

In addition to its role in respect of the Mereenie joint venture, Central Petroleum wholly owns and operates the Palm Valley and Dingo gas fields in the Northern Territory, and has an interest in a number of oil and gas exploration tenure in the Northern Territory (such as the Dukas project) and Queensland (such as the Range project).

CPM is a 50% participant in the Mereenie joint venture, and is a wholly owned subsidiary of Central Petroleum Limited. The Mereenie gas field is Central Petroleum's prime operating asset, with the lowest production costs and the field that has the quickest, lowest risk and lowest cost potential to increase plant capacity to support new sales contracts to East Coast gas customers, including potentially underpinning the AMGP through future gas sales (subject to joint marketing approval).

As discussed in further detail in section 4.5 of this Application, CPM has agreed to sell 25% of its participating interest in the Mereenie joint venture to subsidiaries of NZOG and Cue.

Contact details for the Central Petroleum parties in connection with this Application are:

Central Petroleum Mereenie Pty Ltd (ACN 605 831 025) Central Petroleum Limited (ACN 083 254 308)	<i>[Contact details redacted for privacy reasons]</i>
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#### 4.3 Macquarie Mereenie

Macquarie Mereenie is the other 50% participant in the Mereenie Joint Venture, following its 2017 acquisition of a 50% participating interest in the Mereenie Joint Venture from Santos QNT Pty Ltd and Santos Limited. Its ultimate parent company is diversified financial group, Macquarie Group Limited.

Macquarie Mereenie is a special purpose vehicle which does not have any other ownership interests in gas assets in the Northern Territory or elsewhere in Australia.

Contact details for Macquarie Mereenie in connection with this Application are:

Macquarie Mereenie Pty Ltd (ACN 616 486 974)	<i>[Contact details redacted for privacy reasons]</i>
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#### 4.4 Address for service of the Applicants

The Applicants are collectively represented by Allens in respect of this Application and the address for service of documents on the Applicants is:

John Hedge, Partner, Allens  
Level 26, 480 Queen Street, Brisbane QLD 4000  
Telephone: [redacted] or [redacted]  
Email: [redacted]

#### 4.5 Other parties – anticipated introduction of NZOG and Cue

*2. If applicable, provide details of the other persons and/or classes of persons who also propose to engage, or become engaged, in the proposed conduct and on whose behalf authorisation is sought. Where relevant provide:*

*2.1 name, address (registered office), telephone number and ACN*

*2.2. contract person's name, telephone number and email address*

*2.3 a description of business activities*

In accordance with section 88(2) of the CCA, the Applicants seek for the authorisation to provide protection for, in addition to the Applicants:

- (a) NZOG Mereenie Pty Limited and Cue Mereenie Pty Ltd, as the anticipated 17.5% and 7.5% participants respectively in the Mereenie joint venture following completion of the Central Petroleum Sell-down;<sup>10</sup>
- (b) related bodies corporate of the Applicants, NZOG Mereenie Pty Ltd and Cue Mereenie Pty Ltd; and
- (c) ideally, also other future successors and assignees of those parties (i.e. future Mereenie joint venture participants).

While the Central Petroleum Sell-down is subject to a number of conditions precedent, a number of those conditions precedent have already been satisfied and the parties are seeking to complete the Central Petroleum Sell-down in the 3rd quarter of 2021 calendar year. Consequently without an extension of the

<sup>10</sup> Central Petroleum, ASX Announcement, *Central Sale Underwrites Significant Investment in the Amadeus Basin*, 25 May 2021

authorisation to NZOG Mereenie Pty Limited and Cue Mereenie Pty Ltd, the authorisation will not be effective in covering joint marketing by the expected Mereenie joint venture participants.

New Zealand Oil and Gas is an oil and gas company listed on the NZX and ASX, with interests in gas production in New Zealand and Indonesia. In Australia it has a 15% interest in a Western Australian offshore exploration permit (WA-359-P) in the Carnarvon Basin. NZOG also holds a 50.04% interest in Cue.

Cue Energy Resources Limited is an oil and gas company listed on the ASX, with minority interests in gas production in New Zealand and Indonesia. In Australia it has interests in 3 Western Australian offshore exploration permits in the Carnarvon Basin (21.5% in WA-359-P, 100% in WA-389-P and 20% in WA-409-P).

However, neither NZOG or Cue have any gas production interests in Australia or any Australian gas marketing function or expertise, such that it is particularly important that they are able to jointly market with the existing Mereenie participants.

Contact details for NZOG Mereenie Pty Ltd and Cue Mereenie Pty Ltd are shown below:

NZOG Mereenie Pty Limited (ACN 650 386 360)	<i>[Contact details redacted for privacy reasons]</i>
Cue Mereenie Pty Ltd (ACN 650 385 336)	<i>[Contact details redacted for privacy reasons]</i>

While the imminent Central Petroleum Sell-Down results in the authorisation needing to extend to the future NZOG and Cue Mereenie joint venture participants, the Applicants submit the broader extended classes of persons for which authorisation is sought is more generally necessary to ensure that the authorisation continues to provide statutory immunity for all future participants in the Mereenie joint venture across the period of authorisation sought (particularly given the term of the gas supply contracts which may be entered pursuant to the proposed joint marketing).

That extension is requested out of concern that giving effect to existing jointly marketed contracts may, as a result of a future sell-down of a participant's interest, suddenly cease to be fully covered by the authorisation. However, to the extent the ACCC has concerns with that extension of the authorisation to future unidentified participants, the Applicants would be comfortable with the authorisation in respect of such future participants being conditional on the ACCC providing its prior approval for such new participants (with such a condition being highly preferable to such a new participant or all Mereenie joint venturers having to apply for a new authorisation).

**5 Proposed Conduct**

- 3. Provide details of the proposed conduct, including:
  - 3.1 a description of the proposed conduct and any documents that detail the terms of the proposed conduct
  - 3.2 the relevant provisions of the Competition and Consumer Act 2010 (Cth) which might apply to the proposed conduct
  - 3.3. the rationale for the proposed conduct
  - 3.4 the term of authorisation sought and reasons for seeking this period.

**5.1 Description of the proposed conduct**

The Applicants are proposing to jointly market Mereenie gas production for a further period, in the same manner which was permitted under the Previous Authorisation.

In summary the proposed arrangements would involve:

- (a) the Mereenie joint venture participants (i.e. the Applicants and future Mereenie participants) seeking to source gas sales opportunities for Mereenie gas production (including through knowledge and market intelligence existing within CPM's and Macquarie Mereenie's existing operations);
- (b) the Mereenie joint venture participants seeking to resolve threshold terms and conditions for joint marketing of Mereenie gas and jointly negotiating ultimate contract terms for sales (and jointly negotiating any required gas transportation contracts for such joint sales);
- (c) gas sales opportunities being proposed to all Mereenie joint venture participants;
- (d) generally where they are agreed on, the sale will be participated in by all Mereenie joint venture participants in proportion to their joint venture interest – – *[information redacted as confidential to the Applicants]*;
- (e) where a participant wishes to proceed and any other participant does not, it is possible (subject to the party wishing to proceed having available lifting balance to do so) for that party to proceed to make the sale on its own; and
- (f) the Mereenie joint marketing arrangements remain on foot for up to 5 years (subject to rights for earlier withdrawal).

For the avoidance of doubt, as with the Previous Authorisation, the proposed joint marketing to be authorised will not impact on:

- (g) marketing arrangements of either participant or any of their related parties in respect of gas produced from other fields they may have an interest in now or in the future;
- (h) gas acquired from third parties;
- (i) gas produced from any exclusive (sole risk) operations in the Mereenie field;
- (j) existing gas supply agreements from Mereenie that have already been contracted;
- (k) gas sales agreements entered into by a single party where the opportunity was brought to the joint venture, but only one party elected to proceed with the sale; or
- (l) oil sales.

## **5.2 Potentially relevant provisions of the CCA**

In the absence of the proposed authorisation, the Applicants accept that they are independent gas suppliers which would be considered competitors for the purposes of the cartel provisions in Division 1 of Part IV of the CCA and for the assessment of section 45 of the CCA.

The Applicants consider that the joint venture defence would apply to the proposed conduct and that it is unlikely to lessen competition in any material way. However, given the history of seeking authorisation for joint marketing from the Mereenie field and the parties' desire for absolute regulatory certainty, the Applicants are seeking re-authorisation before proceeding with further Mereenie joint marketing (and the investment decisions that would be facilitated by it).

However, the Applicants are firmly of the view that the public benefits that will arise from the proposed conduct will outweigh any limited public detriment from the conduct, such that it should be uncontroversial that authorisation should be granted.

## **6 Rationale for the proposed conduct**

### **6.1 Approach to authorisation of joint gas marketing**

The Applicants do not dispute that separate marketing can be viable for larger established brownfield gas projects, marketing gas produced in basins located closer to majority of the demand east coast gas market (such as the Gippsland and Cooper basins and Bass Strait offshore fields).

However, whether separate marketing is commercially viable will obviously depend on the nature of the applicants and gas field in question. The need to consider the circumstances on a field by field basis is aptly demonstrated by the ACCC's recent decision to authorise joint gas marketing for the Vali field.<sup>11</sup>

In its final determination on the Vali field joint gas marketing, the ACCC concluded that joint gas marketing was likely to result in public benefits that would outweigh any likely detriment because joint marketing:<sup>12</sup>

- (a) would result in some public benefit by enabling earlier development of the Vali field to bring this new source of gas supply to customers soon than would otherwise be the case;
- (b) would result in a small public benefit in the form of reduced transaction costs and/or increased operating efficiencies for major customers, gas processing operators and gas transmission pipeline operators; but
- (c) was not likely to enhance the Vali participants' ability to supply gas at higher prices and/or on less favourable terms than they would achieve with separate marketing due to the small proportion of total annual east coast gas demand involved and the constraints imposed by rival suppliers.

The Applicants submit those same factors apply to, and justify the granting of, the current authorisation application.

### **6.2 Separate marketing is not commercially feasible for the Mereenie participants**

The Applicants consider they have a lot of similarities to the circumstances of Vali field joint venture participants in terms of joint marketing:

- (a) providing public benefits through earlier development of new gas supplies;
- (b) providing public benefits through reduced transaction costs; and
- (c) not enhancing the Applicant's ability to obtain higher prices due particularly to the small volumes of gas involved and constraints they face from alternative sources of gas supplies.

However, in addition to the issues which faced the Vali joint venture participants, the Applicants (as Northern Territory gas producers instead of the Vali field Cooper Basin producers) face a very different, and more challenging, marketing environment, relative to nearly all other suppliers into the east coast gas market.

In particular, in selling gas from the Mereenie field, Macquarie Mereenie and CPM face a number of distinct challenges that currently prevent separate marketing being commercially feasible, as outlined below.

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<sup>11</sup> ACCC, Determination – Application for authorisation AA1000538 lodged by Vintage Energy Ltd, Metgasco Ltd and Bridgeport (Cooper Basin) Pty Ltd in respect of joint marketing and supply of natural gas produced from the ATP Vali field, 13 May 2021 (**Vali Authorisation**).

<sup>12</sup> Vali Authorisation, 7-10.

### 6.3 Illiquid and firm supply/term-contract nature of Northern Territory gas industry

As recognised by the AEMC in its *Biennial Gas Liquidity Review, Final Report*,<sup>13</sup> gas market conditions in the Northern Territory are characterised by low liquidity, especially in the short to medium term.

In particular, the AEMC noted in its report that gas marketing in the Northern Territory:

- (a) is characterised by supply and transport being contracted through a limited number of long-term agreements, generally entered by Northern Territory government owned entities (i.e. Power and Water Corporation);
- (b) does not involve the large residential and industrial markets for gas seen in the remainder of the east coast gas market;
- (c) is subject to constraints on the Amadeus gas pipeline, and in particular the day ahead auction reforms not applying to that pipeline (due to a Northern Territory specific derogation from those reforms which does not have a scheduled end date); and
- (d) continues to have limited liquidity due to pipeline capacity constraints and significant pipeline tariffs hindering shipping Northern Territory gas beyond the Mt Isa region.

The Applicants agree that all of those are factors that lead to sales of Mereenie gas facing a very illiquid marketing environment, in which separate marketing is not feasible.

In addition, the Applicants note that there are other factors that contribute to the illiquidity of the gas marketing opportunities that the Mereenie participants face, including:

- (e) the nature of market opportunities, based on a small number of higher volume industrial users which:
  - (i) typically require higher volumes than the Mereenie participants can individually commit to on a firm-basis with separate marketing (both due to each only having access to part of the field's volume and because separate marketing results in operational uncertainties regarding the lifting constraints that will occur on any given day, which in practical terms reduces the volumes either participant can commit to supply); and
  - (ii) makes the balancing arrangements that are necessary for separate marketing extremely difficult – due to the substantial imbalances that are likely to develop due to the 'lumpy' and illiquid term-contract driven nature of supplies;
- (f) there is no access to a trading hub (like Wallumbilla and Moomba), the Short Term Trading Market (as exists for Sydney, Brisbane and Adelaide) or the Declared Wholesale Gas Market (as exists in Victoria) – such that such mechanisms are not available in the way they are to other East Coast Gas Market producers to supply incremental non-firm contract volumes (and thereby provide greater non-term contract based balancing opportunities to facilitate separate marketing); and
- (g) there are limitations imposed by the existing contractual arrangements in relation to the AGP. In particular, Power and Water Corporation's existing contractual rights have the effect of overriding the AER's access arrangements for firm transport on the AGP (including tariffs and priority rights through queuing), resulting in reduced competition in short term spot markets and hindering the Applicants' ability to bid for longer term gas contracts, both of which require firm transport.

The Applicants note that while the NGP has provided a first step connection to the broader East Coast Gas Market, it has not yet changed the illiquid and term-contract driven nature of the marketing

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<sup>13</sup> AEMC, 2020 Gas markets liquidity review – final report, 17 July 2020 at 14 and 125-129

opportunities for the Mereenie joint venturers (and the resulting difficulty of separate marketing). In particular, contracts to supply gas via the NGP require firm (take or pay) transportation contracts across the AGP (with the difficulties noted above) and NGP. As a result the costs and constraints on connectivity mean that the maturity of the broader East Coast Gas Market, has not yet made separate marketing viable for Northern Territory gas producers.

In relation to this issue, the Applicants notes the ACCC's analysis in a previous authorisation determination that:<sup>14</sup>

*For separate marketing to be effective the joint venture partners would need to implement balancing arrangements (such as borrow and loan arrangements). In a commodity market, imbalances can be readily adjusted in the short term.*

*The situation is different in a contract market in which gas supplied under long-term contracts. Imbalances are likely to continue for prolonged periods with the possibility of some gas producers in the joint venture receiving little or no return on their investment for the life of foundation contracts. Given that gas production is a costly enterprise and each producer is required to fund the investment in proportion to their share in the joint venture, gas producers are unwilling to take the risk of receiving a share of the cash flows that is not commensurate with their share in the joint venture. Hence, producers require a share in the cash flows under joint marketing arrangements.*

The Applicants consider that statement accurately describes the Mereenie joint venturers' current situation and the key reason why the illiquid and term contract driven marketing opportunities they face make separate marketing not practicable or economically viable.

#### **6.4 Aggregation required for foundation AMGP contracts**

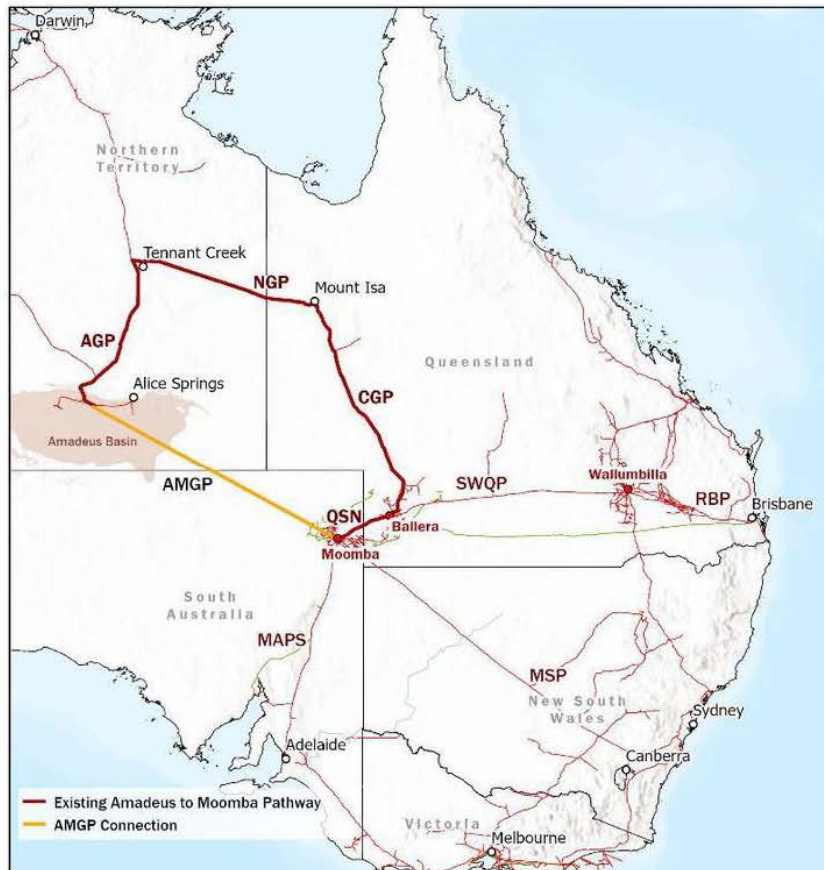
The issue of 'lumpy' sales opportunities often requiring volume commitments beyond what individual Mereenie participants can provide is particularly pointed in the context of the Mereenie joint venture participants seeking to make sales which would facilitate them being foundation customers to underwrite the development of AGIG's proposed greenfield Amadeus to Moomba Gas Pipeline (the **AMGP**).

The AMGP's proposed 950km pipeline route (and the greater connectivity to the east coast gas market it would give rise to) is shown in yellow in the diagram below.

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<sup>14</sup> ACCC, *Determination for authorisation in respect of the PNG Gas Project*, 3 May 2006 at 27.





Source: Central Petroleum Limited, 18 August 2020 ASX Announcement

This is not a theoretical possibility, but the subject of a Memorandum of Understanding signed in August 2020 with the developer, the Australian Gas Infrastructure Group (**AGIG**), under which Macquarie Mereneie and a Central Petroleum group company agreed to investigate signing the foundation transportation contracts which would underwrite the AMGP's development.<sup>15</sup>

The AMGP is estimated to cost in the order of A\$1.2 billion, and, as with all capital intensive infrastructure investments will need to be underpinned by foundation user agreements. Given that Memorandum of Understanding contemplates a foundation volume of approximately – *[information redacted as confidential to the Applicants]* as being necessary to underwrite the investment, a substantial volume of Mereneie gas is likely to be required to be sold to customers via Moomba, in order for the Mereneie participants to enter such a foundation transportation contract.

This will be extremely difficult to achieve with separate marketing as it will require joint venture approval for further Mereneie field development and significant coordination in relation to the timing and volumes of sales to East Coast Gas Market customers where deliveries will occur via the AMGP/Moomba. Without joint marketing, there are real risks that individually marketed supplies by one participant of smaller volumes will effectively deprive both participants of the opportunity for larger supplies via the AMGP.

Should AGIG achieve a final investment decision in respect of the AMGP in late 2021, AGIG advises that it would be possible for construction to commence in 2022, with first gas transportation occurring in 2024. The Applicants submit that this authorisation is a pre-condition for the AMGP being developed in anything like that timing.

<sup>15</sup> Central Petroleum Limited, ASX announcement, *Amadeus To Moomba Gas Pipeline, Proposed Boost to East Coast Gas Supplies*, 18 August 2020.

## 6.5 Existing gas lifting imbalance

The other critical challenge, distinct to the circumstances of the Applicants, is the substantial lifting imbalance of Central Petroleum which already exists (which stood at – *[information redacted as confidential to the Applicants]* overlifted by Central Petroleum as at 31 December 2020).

That substantial lifting imbalance remains as an unresolved legacy arising from a brief period of separate marketing in the illiquid, immature and over-supplied gas market that existed in the Northern Territory when separate marketing was occurring prior to the Previous Authorisation.

The Central Petroleum Sell-Down does not result in any of that existing lifting imbalance being transferred to the NZOG or Cue purchasers – instead it is wholly retained by Central Petroleum.

The Applicants consider this exacerbates the difficulties the Mereenie joint venture participants face in aligning future investment incentives in relation to investment in, and expansion of, the Mereenie field.

The joint marketing which occurred pursuant to prior Authorisation has been effective in reducing the imbalance from its previous peak of *[information redacted as confidential to the Applicants]*. In particular, joint marketing has facilitated Central purchasing a material volume of gas from Macquarie Mereenie to supply part of its share of certain jointly marketed contracts (thereby progressively reducing the imbalance), and continued joint marketing is anticipated to facilitate this progressive reduction continuing.

However, the remaining lifting imbalance (in addition to creating a misalignment of the participants in relation to future investment in the field), creates real practical difficulties for the participants in separate marketing. In particular, it results in uncertainty for each Mereenie participant about the lifting of Mereenie gas:

- (a) in respect of CPM, because of the cap on lifting which can be applied due to the existing imbalance; and
- (b) in respect of Macquarie Mereenie, because of the uncertainty created by CPM being incentivised to change its nominations on a daily basis to substitute Palm Valley gas for Mereenie gas where practicable and economically efficient and viable to address the imbalance.

## 6.6 Joint marketing is necessary to provide the public benefits

The Applicants consider that the proposed authorisation is necessary in order to facilitate further expansion of production and sales from the Mereenie field, and investment in that expansion is of economic benefit in itself but also a significant benefit in the resulting increase in supply to the East Coast gas market.

That follows because:

- (a) an expansion of Mereenie requires approval of both joint venture participants under the Mereenie Joint Operating Agreement; and
- (b) without joint marketing, there will be a material misalignment between the Mereenie joint venture participants' incentives in relation to such investment and expansion, such that future development will not occur; and
- (c) for the reasons described in section 6.2 of this application above, without joint marketing and such a further development, independent marketing is not commercially viable.

The critical misalignment around future investment decisions exists because of the significant gas overlift that had occurred by CPM as a legacy of the sales made independently of its joint venture partner prior to the Northern Territory's connection to the broader east coast gas market, and the illiquid and term-contract driven nature of the opportunities available to the Mereenie participants making gas balancing arrangements extremely difficult.

In the absence of joint marketing:

- (a) each participant has significant uncertainty as to the potentially available firm gas on any given day (due to both participants drawing on the field for contracts the other does not have visibility over);
- (b) due to that uncertainty each participant is effectively forced into lower firm gas sales contracting; and
- (c) as a result, each participant has lower confidence in field expansion and development outcomes and a lower appetite to invest,

such that an expansion of Mereenie will not occur (and it is highly unlikely to AMGP will be able to be developed, at least in the next few years, in the absence of such a Mereenie development providing the foundation transportation volumes), and lower volumes are supplied from the existing non-expanded Mereenie operations than would be the case with joint marketing.

The damage to incentives is exacerbated for Macquarie Mereenie, as its lived experience of separate marketing (prior to the Previous Authorisation) was of CPM's overlifting constraining Macquarie Mereenie's contracting potential. Consequently, Macquarie Mereenie will only have incentives to invest in further expansions where that does not exacerbate CPM's overlifting positions and contributes to a resolution of that issue.

## **7 Term of authorisation**

### **7.1 Term sought**

The Applicants seek:

- (a) authorisation for this conduct for a period of 5 years from the date the Authorisation is granted by the ACCC;
- (b) protection for joint marketing contracts entered during that period for a term of up to 10 years; and
- (c) interim authorisation to enable joint marketing discussions to continue while the substantive Authorisation application is considered.

### **7.2 Rationale for term**

Whilst the 5 year joint marketing period sought is for a longer period than the 3 year Previous Authorisation, the Applicant's view is that such period is justified on the grounds below.

The proposed longer term is sought with the intention of covering:

- (a) the period during which further Mereenie appraisal, development and expansion would occur and the initial gas production from that development will be marketed and contracted (with significant 2P reserves being required to be proven up in advance of entering long term / high volume contracts);
- (b) the minimum term of gas supply which the Applicants consider would be required in order:
  - (i) to provide the long-term certainty required to enable a final investment decision (**FID**) in respect of further Mereenie development; and
  - (ii) for the Applicants to effectively underwrite the development of the AMGP— which will require entering a long term take or pay contract for transportation via the pipeline; and

- (c) a period of time over which the Mereenie participants consider it will be possible to eliminate CPM's material lifting imbalance.

The Applicants also note that a longer term than the Previous Authorisation is appropriate where:

- (d) the experience of the Previous Authorisation has demonstrated that joint marketing has not lessened competition in the market or facilitated the Applicants raising price (such that there is no evident risk to competition which would weigh against granting a 5 year authorisation); and
- (e) the ACCC has recently accepted as appropriate a 5 year term for the joint gas marketing authorisation granted to the Vali field (which included authorisation for up to 15 year contracts entered during that period – longer than the 10 year contract terms the Applicants are seeking authorisation for).

As the ACCC found in respect of the Vali field authorisation,<sup>16</sup> the Applicants consider the 5 year term is justified as it is likely to meet customer requirements (particularly for foundation user contracts related to the AMGP) and provide the Applicants with sufficient certainty to expedite field development and future gas supply.

### 7.3 Relevant documentation

*4. Provide documents submitted to the applicant's board or prepared by or for the applicant's senior management for purposes of assessing or making a decision in relation to the proposed conduct and any minutes or record of the decision made.*

*[Information redacted as confidential to the Applicants]*

### 7.4 Other entities which may be impacted

*5. Provide the names of persons, or classes of persons, who may be directly impacted by the proposed conduct (e.g. targets of a proposed collective bargaining arrangements; suppliers or acquirers of the relevant producers or services) and detail how or why they might be impacted.*

The Applicants consider other entities which may be impacted are as follows:

Persons potentially impacted	Anticipated impact
<b>East coast gas market customers</b>	<p>Gas customers in the broader east coast gas market will be positively impacted by the proposed authorisation, as it is likely to provide them with another future source of potential gas supply that will compete with existing suppliers.</p> <p>The East Coast gas customers which are most directly impacted are likely to be those with operations in the Mt Isa region, such that they are the East Coast customers for which Northern Territory gas can be the most competitive on a delivered basis, including APA (for its gas fired power stations), EDL (for its Cannington gas fired power station), Mount Isa Mines/Glencore (for its mining operations), Incitec Pivot (for its acid and fertiliser plant), and AGL (as a reseller of gas in the region).</p> <p>Contact details for those customers are provided below:</p>

<sup>16</sup> Vali Authorisation, 11.

Persons potentially impacted	Anticipated impact		
	<b>Stakeholder</b>	<b>Description</b>	<b>Contact Details</b>
	APA Group	MT Isa gas fired power stations	<i>[Contact details redacted for privacy reasons]</i>
	South32	Cannington Mine gas fired power station	<i>[Contact details redacted for privacy reasons]</i>
	Glencore	Mount Isa Mines	<i>[Contact details redacted for privacy reasons]</i>
	Incitec Pivot	Phosphate Hill Fertiliser Plant	<i>[Contact details redacted for privacy reasons]</i>
	AGL	Reseller of gas in Mt Isa	<i>[Contact details redacted for privacy reasons]</i>
	<p>Where joint marketing of Mereenie gas facilitates development of the AMGP that will particularly benefit customers in the southern parts of the East Coast gas market which rely on a connection through Moomba for delivery of the gas – as transport of Northern Territory gas over a significantly greater distance through 4 pipelines is cost prohibitive (AGP, NGP, CGP and SWQP) and is not currently a realistic supply option.</p>		
<b>Northern Territory customers</b>	<p>The Applicants are conscious that it might be perceived that customers in the Northern Territory will be potentially impacted in that it is more likely that supplies from Mereenie would be provided jointly rather than independently.</p> <p>However, the Applicants consider that there will be no negative impact on such customers as:</p> <ul style="list-style-type: none"> <li>• many of the existing customers already have secure gas supplies under term contracts from Power and Water Corporation or the Mereenie joint venture participants;</li> <li>• joint marketing is actually likely to create greater gas volumes being available – due to lessening the day-to-day uncertainty about capacity to supply firm volumes from the Mereenie field;</li> <li>• there are other existing Northern Territory gas suppliers including particularly Power and Water Corporation, which has contracted significant supply including the entirety of the Blacktip offshore field's production under a 25 year contract, volumes purchased from – <i>[information redacted as confidential to the Applicants]</i> and significant volumes from Central Petroleum's non-Mereenie fields, and resells that to Northern Territory and east coast gas customers;</li> <li>• gas supplies from Power and Water Corporation to industrial customers are likely to increase significantly, and thereby impose an even greater competitive constraint, given the Northern Territory governments target of 50% renewal energy by 2030 for electricity supply<sup>17</sup> and the resulting</li> </ul>		

<sup>17</sup> Northern Territory, Roadmap to Renewables, Fifty per cent by 2030, September 2017.

Persons potentially impacted	Anticipated impact
	<p>anticipated scaling back of Power and Water Corporation's gas supply to Northern Territory gas fired electricity generators;</p> <ul style="list-style-type: none"> <li>in the period of authorisation being requested, there is the potential for new Northern Territory producers entering the market, such as Beetaloo Basin projects (which involves significant gas resources well in excess of the Mereenie resources) – which are benefiting from additional government funding and the prospects for development of which will be enhanced where the AMGP is developed;</li> <li>as recognised in the Previous Authorisation determination, the NGP could be made bi-directional, such that import competition would be likely to arise in the highly unlikely event that Northern Territory gas prices rose above east coast gas market prices; and</li> <li>there is the potential for significant offshore resources to be supplied to domestic Northern Territory customers in the unlikely event that Northern Territory gas prices rose above LNG net-back prices.</li> </ul>
<b>Developer of the AMGP - AGIG</b>	<p>Mereenie joint marketing will provide a significant positive impact for AGIG's prospects of development of the AMGP – due to being likely to provide the foundation transportation volumes required to underwrite that development (in a way that would be much harder to negotiate where both the gas sales and the gas transportation arrangements had to be negotiated separately by each Mereenie participant).</p> <p>Without Mereenie joint marketing, the Applicants consider AMGP is likely to either be significantly delayed or not proceed.</p>
<b>East coast gas market suppliers</b>	<p>Mereenie joint marketing will provide an incremental increase in competition for other east coast gas suppliers.</p>
<b>Potential new Northern Territory producers</b>	<p>Given the role Mereenie joint marketing is likely to play in underwriting a substantial improvement in the connectivity of Northern Territory gas resources to east coast gas market demand (via the AMGP), Mereenie joint market is likely to positively contribute to the prospects of further Northern Territory gas developments outside of Mereenie (in an environment where there is known to be significant east coast demand, and significant Northern Territory gas resources, but currently significant limitations imposed by the costs of transportation).</p>

## 8 Market information

### 8.1 Applicants

*6. Describe the products and/or services, and the geographic areas, supplied by the Applicants. Identify all products and services in which two or more parties to the proposed conduct overlap (compete with each other) or have a vertical relationship (e.g. supplier-customer).*

Macquarie Mereenie has no interests outside of the Mereenie joint venture, such that any 'overlap' is limited to gas sales and contracting of related gas transportation services.

Authorisation is not sought for, and the joint marketing would not involve, any cooperation between the Applicants in relation to existing or future oil or gas projects outside the Mereenie joint venture.

In particular, marketing from Central Petroleum's Palm Valley and Dingo operations, or other potential projects, such as Range (in Queensland) and Dukas and Orange (in the Northern Territory) would not be covered by the proposed marketing authorisation.

For completeness, the Applicants note that CPM currently purchases gas from Macquarie Mereenie as part of the arrangements for, over time, resolving the lifting imbalance, and this is anticipated to continue (where joint marketing is occurring).

*8. In respect of the overlapping products and/or services identified, provide estimate market shares for each of the parties where readily available.*

The Mereenie field's gas production for the 2020 financial year was approximately *[information redacted as confidential to the Applicants]*.

Central's total gas production for the 2020 financial year (including its 50% entitlement from Mereenie and 100% of production from the Palm Valley and Dingo fields) was 11.8 PJs.

Based on the ACCC's latest Interim Report in its ongoing gas inquiry, the total supply in the East Coast gas market for 2021 will be 1990 PJs.

That is, the market share of Mereenie is only approximately 0.6% of east coast gas market supply (and not materially different to the volume for which joint gas marketing is proposed to be authorised in respect of the Vali field<sup>18</sup>).

Even on a purely Northern Territory customer basis (which the Applicants emphasise is an artificially narrow definition that does not represent the economic bounds of the market), the Applicant's combined share of supplies is estimated to be approximately 22%.

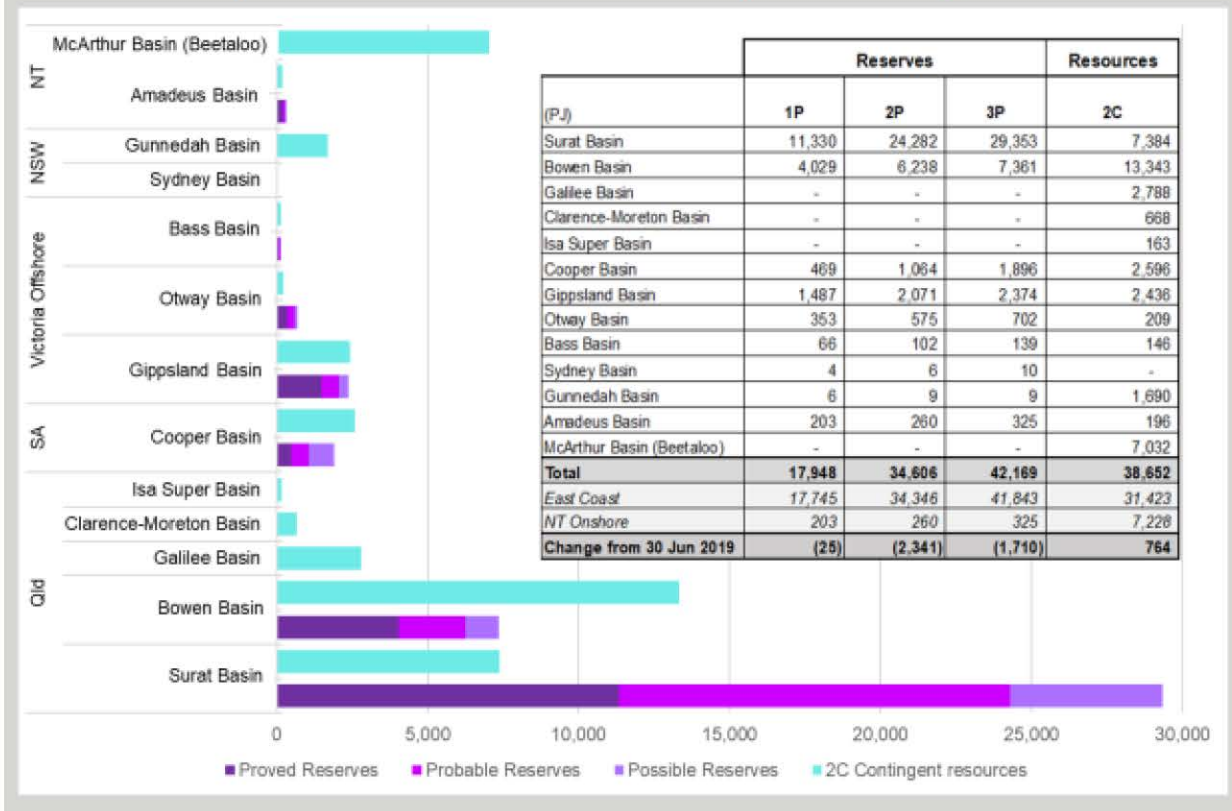
The Applicants submit that simply considering production actually overstates the impact of the Mereenie field over the period of authorisation, and that available reserves are equally important. In that regard, the below figure from the ACCC's recent report<sup>19</sup> provides an indication of the small scale of Mereenie relative to gas reserves and resources in the Northern Territory and east coast gas market (noting that offshore reserves are not included, such that the Blacktip reserves and resources utilised by Power and Water Corporation for domestic supply are additional to the figures below):

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<sup>18</sup> Vali Authorisation at 9.

<sup>19</sup> ACCC, *Gas inquiry 2017-2025, Interim report*, January 2021, 27.

**Chart 1.4: Snapshot of reserves and resources (30 June 2020)**



**8.2 East Coast Gas Market**

7. Describe the relevant industry or industries. Where relevant describe the sales process, the supply chains of any products or services involved, and the manufacturing process.

In the ACCC's Determination in the Previous Authorisation it notes that:<sup>20</sup>

*The ACCC considers that the relevant areas of competition for the purposes of this assessment include the supply of natural gas to commercial and industrial customers in the Northern Territory and the greater Mount Isa region (the NT-Mt Isa Region), which is likely to extend south into northern New South Wales. The ACCC does not consider it necessary to precisely define the geographic scope of this relevant area of competition.*

Based on that description, it appears to the Applicants that the ACCC considered the market to include the Northern Territory, Mt Isa region, south east Queensland and Northern New South Wales.

The Applicants continue to consider that the market is more appropriately considered as the broader East Coast gas market (rather than being restricted to the 'NT-Mt Isa Region' as previously assessed by the ACCC).

The Applicants submit that is the more appropriate market definition under which to assess the proposed conduct because:

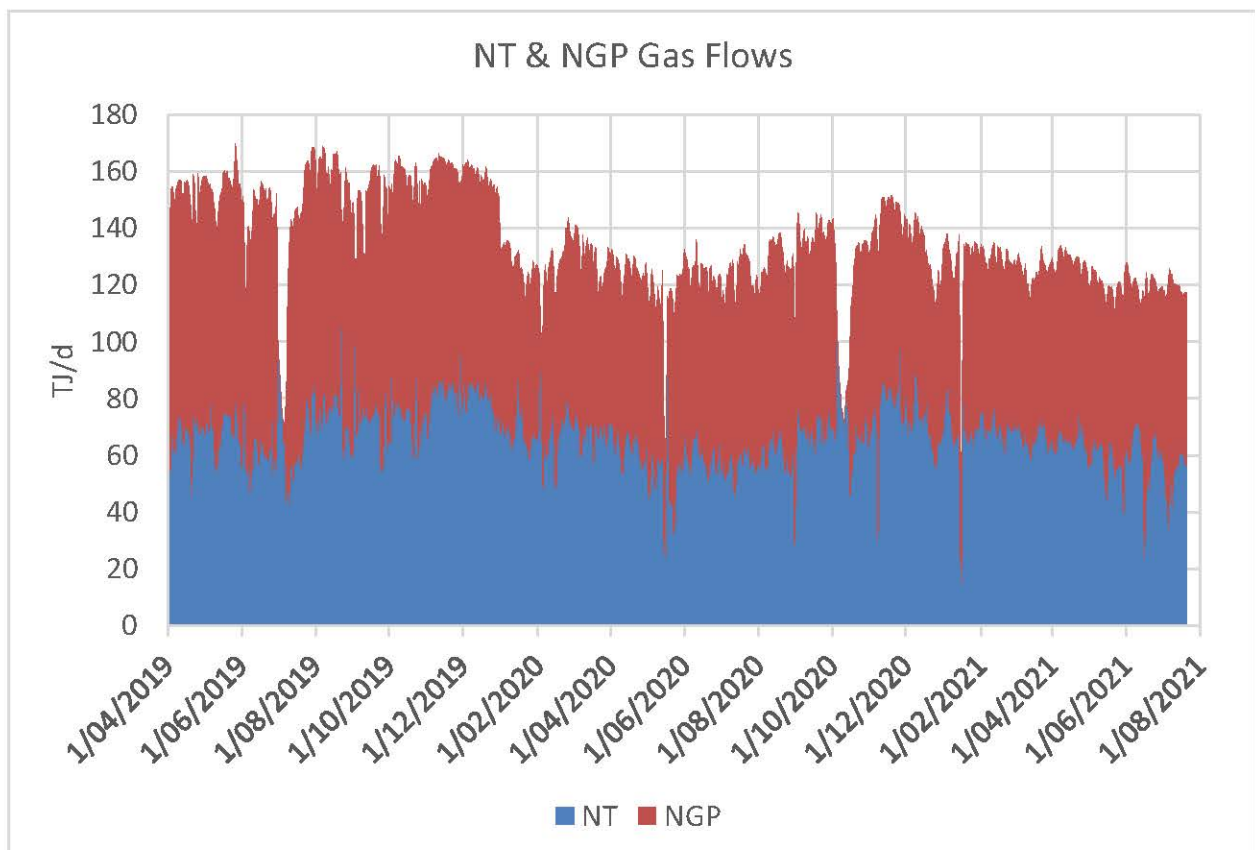
- (a) The NGP is developed and operational – with both the Applicants and Power and Water Corporation selling gas volumes into the east coast gas market utilising transportation via the NGP, including contracts to *[information redacted as confidential to the Applicants]*;

<sup>20</sup> Previous Authorisation Determination at 9.



- (b) The Applicants have made gas sales to customers on the east coast outside of the Mount Isa region;
- (c) Given most of the Northern Territory gas customers have already contracted their required gas supplies, the vast majority of gas supply that the Applicants would be looking to jointly market would be to East Coast gas customers;
- (d) While the NGP is not currently bi-directional, there are potential swap and back-haul opportunities to allow East Coast gas producers to supply Northern Territory customers and it could become bi-directional in the highly unlikely event that Northern Territory prices exceeded East Coast gas prices for any sustained period;
- (e) There is less evidence of a divergence in Northern Territory gas prices and gas prices in the balance of the East Coast gas market than would be anticipated if there were separate economic markets;
- (f) Jemena is proposed to develop a further pipeline connection from Mount Isa through the Galilee Basin, providing greater connectivity into the east coast gas market for Northern Territory produced gas transported via the NGP; and
- (g) As discussed earlier in this application, AGIG is proposing to develop the AMGP which would allow economic transport during the period of authorisation sought to a significantly greater number of customers south of the 'Mt Isa Region' described in the ACCC's Previous Authorisation determination.

Prior to the development of the NGP, with first gas transported in December 2018, all Northern Territory gas production (including all production from the Mereenie field) was consumed solely in the Northern Territory. However, the linkage to the balance of the East Coast gas market is now clearly established. The graph below shows the quantity of gas flows reported for Northern Territory consumption and gas flows across the NGP for use elsewhere in the East Coast gas market:



While the respective proportions vary over time, the Applicants consider the above gas flow data demonstrates that a substantial proportion of Northern Territory produced gas is supplied to East Coast customers outside the Northern Territory, such that it should be considered part of the same market.

*[Information redacted as confidential to the Applicants]*

Accordingly, the Applicants consider that the market in which the impact of the proposed conduct should be considered is the broader East Coast gas market.

However, for the reasons set out in section 9 below, the Applicants consider that even on the ACCC's narrower market definition adopted in the Previous Authorisation determination, the Applicants will still be competing with alternative sources of supply that will ensure that the Applicants' are not able to supply gas at higher prices or otherwise substantially lessening competition.

## **9 Competition faced by the Applicants**

*9. In assessing an application for authorisation, the ACCC takes into account competition faced by the parties to the proposed conduct. Describe the factors that would limit or prevent any ability for the parties involved to raise prices, reduce quality or choice, reduce innovation, or coordinate rather than compete vigorously. For example, describe:*

*9.1. existing competitors*

*9.2 likely entry by new competitors*

*9.3 any countervailing power of customers and/or suppliers*

*9.4 any other relevant factors.*

### **9.1 Overview of competition**

The Applicants understand that the ACCC's potential concerns with joint marketing is whether it has the potential to result in public detriment through allowing joint marketers to supply gas at higher prices and/or on less favourable terms and conditions.

The Previous Authorisation determination reached the clear conclusion that joint marketing by the Applicants would not have that result.

In particular, the ACCC concluded that:<sup>21</sup>

- 85. In this case, the ACCC considers that the proposed conduct is not likely to result in public detriment because it does not materially enhance the Applicants' ability to supply gas at higher prices and/or on less favourable terms and conditions than they would likely achieve with separate marketing.*
- 86. The ACCC notes that commercial and industrial customers in the NT-Mt Isa Region are likely to have a number of alternative sources of supply and will assess the Applicants' offer against those of rival suppliers, including PWC from the Blacktip Field in the NT, Cooper Basin gas suppliers and, in the future, potentially Galilee Basin gas suppliers.*
- 87. The ACCC remains of the view that these alternative sources of supply are likely to constrain the Applicants' price and service offers to NT-Mt Isa customers. The ACCC accepts that the NGP is not currently bi-directional. However, the ACCC considers that opportunities remain for gas swaps and backhaul contracting along the pipeline.*

The Applicants consider that remains an accurate summary of the competition that the Applicants face and the resulting constraints on their ability to supply at a higher price than if they marketed separately.

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<sup>21</sup> Previous Authorisation Determination, 16-17.

If anything, it understates the likely competition the Applicants face given the now current and future potential sources of supply that have emerged since the ACCC's Previous Authorisation determination. Again, the Applicants consider the information gathered by the ACCC in the course of its ongoing East Coast gas market inquiry will substantiate the continuing accuracy of the ACCC's previous analysis.

## **9.2 Existing competitors**

As discussed in the Previous Authorisation determination, existing competitors include:

- (a) Power and Water Corporation (which acquires all of the supply from the Blacktip offshore gas field under a 25-year contract and substantial volumes from Central Petroleum's non-Mereenie fields, and will be incentivised to supply higher volumes to industrial customers in the future given the Northern Territory government's strategy of 50% renewal electricity generation by 2030);
- (b) Cooper Basin gas producers (particularly, major producers such as Santos, Beach and Origin);
- (c) Surat Basin gas producers, including LNG producers selling domestically, Arrow Energy, and emerging producers from tenements granted on a domestic supply condition basis (such as Senex Energy's Atlas project); and
- (d) Gippsland Basin, Bass Strait and Otway Basin producers.

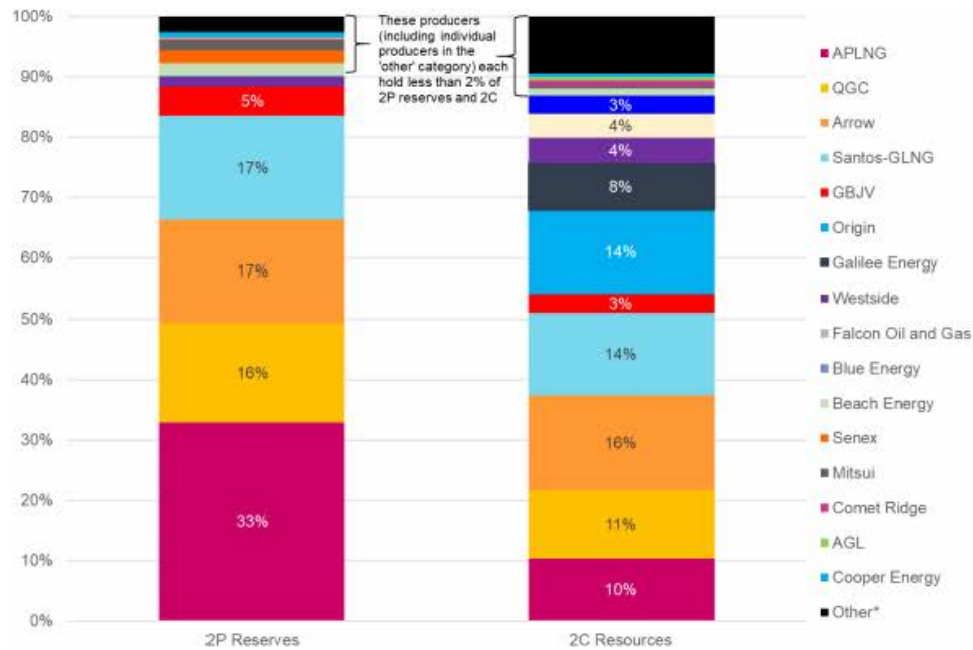
Production volumes and reserves of these alternative suppliers far outweigh those of the Mereenie joint venturers (or the Applicants' projects combined).

As shown in the diagram below, the Mereenie participants hold a tiny proportion of the total East Coast gas reserves and resources (comprising a small part of the 'other' category):<sup>22</sup>

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<sup>22</sup> ACCC Report, *Gas inquiry 2017-2025, Interim report*, January 2021, 121.

**Chart A.4: 2P reserves and 2C resources held by producers (at 30 June 2020)**



Source: ACCC analysis of data obtained from gas producers.

- Notes:
1. Estimates of reserves and resources are based on net revenue interests.
  2. Santos-GLNG's share of 2P reserves and 2C resources include Santos, Petronas, Kogas and Total's interests in the GLNG Joint Venture Project, as well as Santos's non-GLNG interests.
  3. QGC's share of 2P reserves and 2C resources include Tokyo Gas and CNOOC's interests in the QCLNG project.
  4. APLNG's share of 2P reserves and 2C resources include Origin, ConocoPhillips and Sinopec.
  5. GBJV's share of 2P reserves and 2C resources include ExxonMobil and BHP's interests in the Gippsland Basin, including their interests in the Kipper joint venture.
  6. The 'other' category includes Armour Energy, Australian Goldfields Ltd, Bridgeport, Central, CleanCo, Denison Gas, Emperor Energy, EnergyAustralia, Incitec, Macquarie Merenjie, Metgasco, OG, Prize Petroleum, Real Energy, Southerpec, SGH Energy, Strike, Tamboran Resource, Tri-Star and Vintage Energy. See also notes to table A.2.

### 9.3 Likely new entrants

#### New gas projects

There are also significant new entrants anticipated in the East Coast gas market with developments driven by expectations of the east coast gas market shortfall.

For example, the ACCC has identified each of the following approved projects as due to come online in the period in which authorisation is being sought:<sup>23</sup>

<sup>23</sup> ACCC, *Gas inquiry 2017-2025, Interim report*, January 2021, 39.

**Table 2.1: Projects approved for development due to come online prior to the projected shortfall in supply**

Operator	Project	Basin	2P Reserves (PJ) <sup>a</sup>	2C Resources (PJ) <sup>a</sup>	Annual production (PJ p.a.)	Potential timing for supply	Key risks to timing of supply <sup>b</sup>
GBJV	West Barracouta	Gippsland	122	1.3	28.0	2021	COVID
Denison Gas	Denison North	Bowen	10	0	1.1	2020–23 <sup>c</sup>	C, F, E&A
	Denison South		10	0	1.7	2021–22 <sup>c</sup>	
Arrow	Red Hill Central	Nth Bowen	27	487	0.6	2021	I, JV
	Hopeland and Wyalla	Surat	963	3	1 <sup>d</sup>	2022–23 <sup>e</sup>	I, L <sup>e</sup>
QGC	Myrtle & Ridgewood	Surat	11	40	0.4	2022	I

In addition, the ACCC has identified a larger range of domestic projects that are not yet approved but where producers have indicated supply could potentially commence by 2026.<sup>24</sup>

Without reproducing the list of those projects in full, they span numerous projects across the Surat Basin, Bowen Basin, Galilee Basin, Cooper Basin, Gippsland, Otway and Bass basins, Gunnedah Basin and McArthur Basin (Beetaloo sub-basin).

#### Competition from LNG / LNG diversion

In addition, there are five proposed LNG import terminals which, once developed would make LNG production from Queensland, the Northern Territory and Western Australia a competitor to gas supplied via Australia's east coast gas pipeline network.

In particular, the Australian Industrial Energy consortium has received all required approvals to develop the Port Kembla LNG import terminal in New South Wales, secured the required leasehold tenure from NSW Ports and announced it was seeking for supply to commenced by the end of 2022.<sup>25</sup> AIE has also recently signed a MOU for connection of the project to the eastern gas pipeline to facilitate transporting gas imports from the terminal.

The ACCC's most recent central case projections assume that this import terminal will proceed.

In addition there are other proposals for LNG import terminals at the Port of Newcastle (New South Wales), Crib Point and Geelong (Victoria) and Outer Harbour (South Australia).

Importantly for the ACCC's assessment of competition in relation to this authorisation, even a single LNG import terminal gives rise to significant import competition (from either Western Australia or internationally). Accordingly, the ACCC can have a high degree of confidence in the likelihood of new entrants / sources of supply commencing and contributing to competition.

The Applicants also note that it would be possible for the Darwin LNG project to sell gas domestically in the Northern Territory (in the way the Queensland LNG projects have done) if domestic gas prices justified doing so, which provides a competitive constraint that is not apparent based purely on an assessment of current domestic supply volumes or market shares.

#### 9.4 Countervailing power

The Applicants submit that major customers also have a reasonable degree of countervailing power, at least against the Mereenie producers in seeking to establish new contracts in the east coast gas market, given the presence of more proximately located alternative suppliers.

<sup>24</sup> ACCC, *Gas inquiry 2017-2025, Interim report*, January 2021, 41-42

<sup>25</sup> See <https://ausindenergy.com/> for further details about the current status of this project.

There is also some evidence that major customers have the ability to 'sponsor' new entry by entering initial long term contracts as a foundation user for a new gas project.

## 10 Test for Authorisation

The ACCC may grant authorisation where it considers the public benefit of the proposed conduct will outweigh the anti-competitive detriment.

This involves an assessment on a 'with and without' basis of the likely future outcomes with and without the proposed conduct.

The Applicants submit that where the proposed conduct:

- (a) is authorised, joint marketing of Mereenie gas will be permitted, and is likely to deliver reduction of the lifting imbalance and greater alignment of investment incentives which will facilitate expansion of Mereenie production, an increase in East Coast gas supply, and the development of the AMGP; or
- (b) is not authorised, the Applicants will engage in separate marketing, with the likely outcome of lower volumes of Mereenie gas supplies than is currently occurring, less competition and the progress of the AMGP being delayed if not ceased.

## 11 Public Benefits

*10. Describe the benefits to the public that are likely to result from the proposed conduct. Provide information, data, documents or other evidence relevant to the ACCC's assessment of the public benefits.*

As recognised by the ACCC in previous authorisation decisions, a broad approach should be taken to considering public benefits, consistent with the approach adopted by the Australian Competition Tribunal.<sup>26</sup>

*... anything of value to the community generally, any contribution to the aims pursued by society including as one of its principal elements ... the achievement of the economic goals of efficiency and progress ...*

The Applicants set out below the key public benefits they consider will arise from the proposed joint marketing conduct.

### 11.1 Economic benefits of new and quicker Mereenie development and supply

As discussed in sections 2 and 6 above, the Applicants consider that the proposed authorisation is critical to facilitating investment in appraisal drilling and further expansion of production from the Mereenie field.

The further development and expansion of the Mereenie field would bring substantial economic benefits including:

- (a) providing new gas supply to underwrite the development of the AMGP (discussed further in 11.2 below);
- (b) providing new gas supply to assist in alleviating the east coast gas shortfall (discussed in 11.3 below);
- (c) increased royalties for the Northern Territory government;
- (d) increased employment in the Alice Spring region (including indigenous employment);
- (e) increased compensation payable to the Central Land Council for the benefit of Indigenous groups; and

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<sup>26</sup> *Queensland Co-operative Milling Association Ltd* (1976) ATPR 40-012 at 17,242; cited with approval in *Re 7-Eleven Stores* (1994) ATPR 41-357 at 42,677.

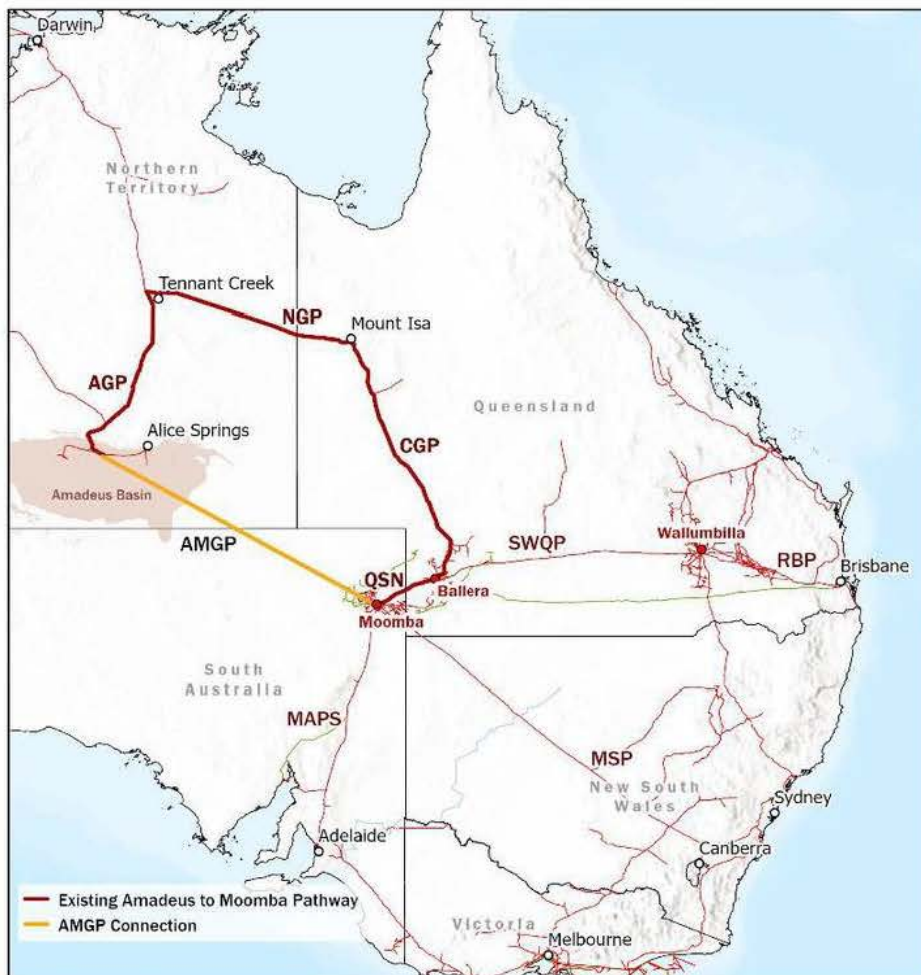
- (f) generating further economic activity to assist with economic recovery from COVID-19.

Even if the ACCC considers that further Mereenie development and increased gas supplies would occur eventually without the proposed conduct (contrary to the Applicants view), it is clear that there would be real difficulties in negotiating gas balancing arrangements to support that occurring, such that the development timeframes would be significantly delayed.

Consistent with the ACCC's reasoning in the Previous Authorisation determination, this earlier development and bringing forward of additional supply in times of shortage of gas supply is a public benefit.<sup>27</sup>

## 11.2 Facilitating development of Amadeus to Moomba pipeline

As discussed in sections 2 and 6 above, the Applicants are, where they can market jointly, the likely foundation customers which could underwrite the development of AGIG's AMGP project, to be developed on the route shown below:



Source: Central Petroleum Limited ASX announcement, 18 August 2020

As discussed earlier in this application, the Memorandum of Understanding that Macquarie Mereenie and a Central Petroleum group company have executed with AGIG contemplates that a foundation volume of approximately *[information redacted as confidential to the Applicants]* as being necessary to underwrite the investment.

<sup>27</sup> Previous Authorisation Determination, 12.

The Mereenie's fields currently uncontracted 2P reserves are approximately *[information redacted as confidential to the Applicants]* of the required foundation supply.

If the Mereenie Stairway's potential *[information redacted as confidential to the Applicants]* is included by way of further development, jointly marketed gas from Mereenie alone could provide the required foundation user volumes alone.

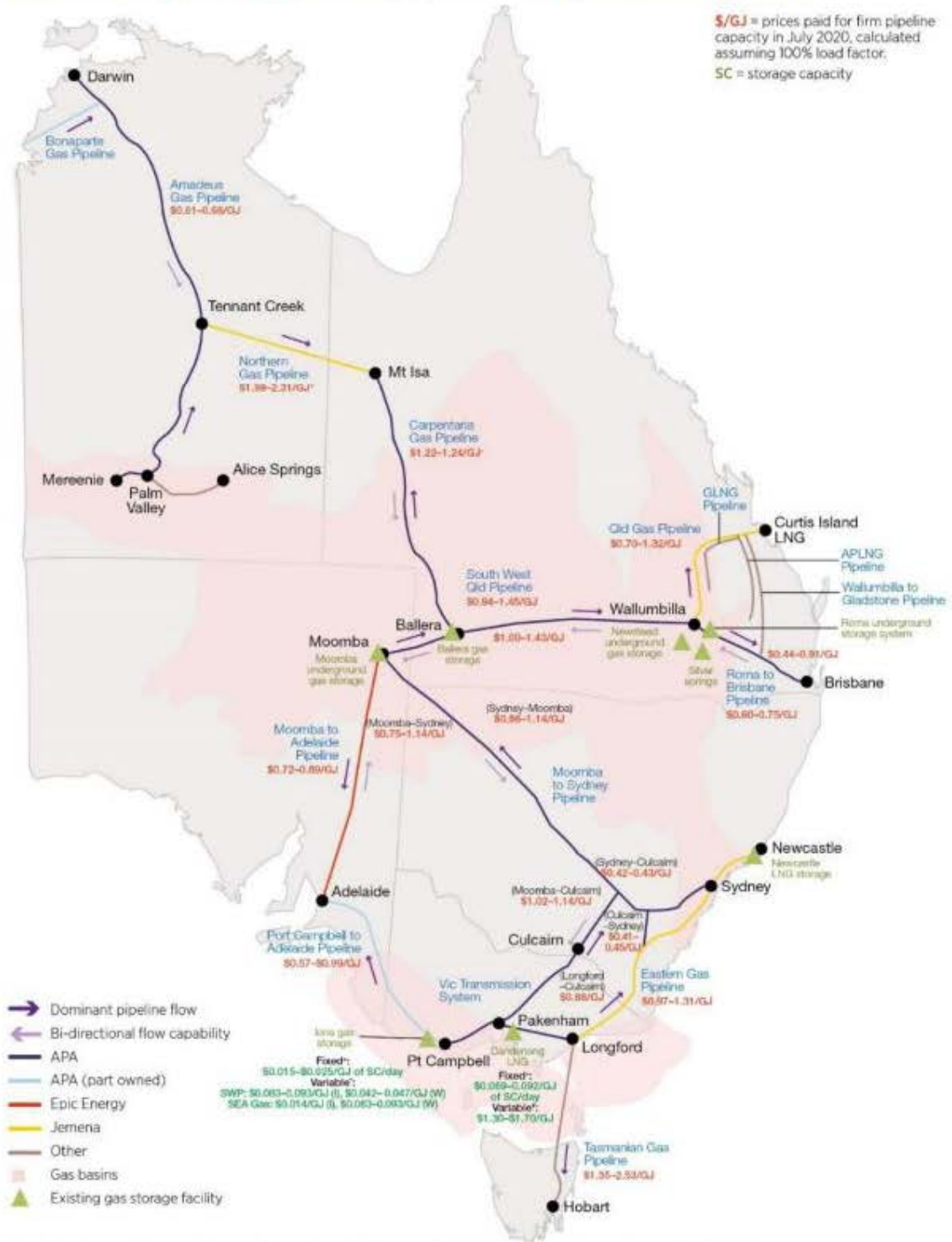
The development of the AMGP would:

- (a) significantly reduce the distance for gas produced in the Amadeus basin to reach customers in the southern part of the east coast gas market (with one pipeline of 950km instead of four pipelines over 2,200km for transport to Moomba);
- (b) thereby significantly lower gas transportation costs to access the east coast gas market;
- (c) as a result:
  - (i) facilitate the development of further resources in the Amadeus basin (and other Northern Territory basins) by providing greater access to customers in the east coast gas market – which in turn will assist in alleviating the anticipated east coast gas supply shortfall; and
  - (ii) create competition for the NGP in terms of pipeline transportation services (by the introduction of an alternative method of accessing east coast gas customers).

The ACCC's most recent interim report in its ongoing gas inquiry provides a clear indication of how significant the transportation costs currently are in order for Amadeus Basin gas to be transported to east coast gas market customers as shown in the diagram below:



**Figure 5.1: Firm transportation and storage prices as at July 2020**



It is likely the tariffs that would be applicable to the much more direct AMGP transportation route would make Northern Territory gas resources significantly more competitive to the balance of the East Coast gas market (particularly for sales to customers in the southern states where the shortfall is anticipated to be most keenly felt).

The development of the AMGP would also be highly consistent with the Federal government's intention to get more gas into the market by unlocking the Beetaloo Basin.<sup>28</sup>

### **11.3 Reducing the east coast supply-demand imbalance**

As discussed in sections 2 and 6 above, the additional Mereenie supply which would be facilitated by the joint marketing would provide increased supply into the East Coast gas market at a time of anticipated shortfall and uncertainty of future supplies.

It is evident from the ACCC's ongoing gas inquiry that there is a real risk of a significant imbalance between gas supply and demand in the east coast gas market, with a heavily reliance on development of currently undeveloped reserves (as shown in the diagrams earlier in this application):

If anything that likely shortfall will now be greater than anticipated – because the volatile and uncertain oil and gas price environment that has, in part, resulted from the COVID-19 related recession and economic contraction – has resulted in numerous oil and gas development projects being deferred or delayed.

As the ACCC recognised in its most recent interim report, Northern Territory gas is:

- (a) an important source of supply for the east coast gas market – and one of the potential sources from which additional supply is needed to avoid the projected shortfall;<sup>29</sup> and
- (b) a source with the potential to grow further – subject to pipeline capacity constraints of the Northern Gas Pipeline.

Prior to expiry of the Previous Authorisation, the Applicants had jointly commenced negotiating term sheets with customers mainly in the Mt Isa region but also within the Northern Territory which commence gas supply in early 2022. Any disruption to the Applicants ability to jointly market this gas has the potential to hinder, delay, or reduce available supply options for these customers.

A summary of the negotiations commenced jointly prior to the Previous Authorisation expiring is provided below.

*[Information redacted as confidential to the Applicants]*

The Mereenie joint venture participants are not currently jointly pursuing those sales, such that any discussions that are occurring are limited to a single participant (with the limitations in term of available volumes and risks of future imbalances that involves and lesser attractiveness to the relevant customers).

Accordingly, the facilitation of these contracts through joint marketing would significantly improve the chances of greater gas supply from the Mereenie field into the Northern Territory and balance of the east coast gas market in the near term.

### **11.4 Cost savings and synergies**

The Applicants also submit that the proposed conduct will result in reduced transaction costs for:

- (a) major commercial and industrial customers seeking to purchase gas produced from the Mereenie field; and
- (b) pipeline operators, and particularly AGIG as the pipeline developer for the AMGP,

due to the ability to arrange purchase and gas transportation terms through a single negotiation, rather than multiple negotiations.

As discussed earlier in this application, public benefits of this nature were recognised by the ACCC in the recent Vali field joint marketing authorisation.

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<sup>28</sup> *Gas-Fired Recovery, Media Release – Prime Minister, Minister for Energy and Emissions Reduction, Minister for Resources, Water and Northern Australia*, 15 September 2020.

<sup>29</sup> ACCC, *Gas Inquiry 2017-2025, Interim Report*, January 2021, at 43.

The Applicants also submit that this is a particularly important public benefit in the context of enhancing the prospects of the AMGP development, because (as discussed above), the foundation volumes required to underwrite that development will necessarily require volumes from all Mereenie participants, and the negotiation of these longer term foundation contracts which underwrite infrastructure development would be anticipated to be materially more complicated than other gas supply contracts. As part of the Central Petroleum Sell-down Central Petroleum will be seeking to assign 50% of Central Petroleum's interest in the AMGP MOU with AGIG and Macquarie Mereenie<sup>30</sup> to NZOG and Cue given the importance that their contribution to gas volumes will be to support an AMGP development.

This would also be significantly more efficient for the Applicants, because the depth of potential customers in the East Coast seeking gas supplies will involve significant duplication of cost and effort in relation to both business development and negotiation where the Applicants were required to individually find gas sales opportunities for Mereenie gas.

The Applicants also submit that there would be additional efficiencies created through alignment between the Mereenie participants on practical matters regarding nominations to be made under gas sales agreements and gas transportation agreement.

## 12 Public Detriment (including likely competitive effects)

11. Describe any detriments to the public likely to result from the proposed conduct including those likely to result from any lessening of competition. Provide information, data, documents or other evidence relevant to the ACCC's assessment of the detriments.

The Applicants consider there is very limited, if any, potential public detriment caused by the proposed conduct.

In particular, the Mereenie participants will not be able to obtain more favourable pricing (or other gas supply terms) by jointly marketing.

The Applicants are certain in that view because:

- (a) the additional quantity of gas targeted to be jointly marketed is *[information redacted as confidential to the Applicants]* per annum, which is approximately 0.6% of east coast gas market supply and 0.7% of the east coast gas market annual demand (based on the ACCC's most recent forecasts for 2021) – such that the joint marketing will not materially change the concentration in the market or competitive dynamics;
- (b) CPM and Macquarie Mereenie will not be 'price setters' – because the price for the Mereenie gas to be jointly marketed will effectively be negotiated with customers who will only proceed with purchasing it if it is competitively priced relative to the numerous alternative sources of east coast gas supply;
- (c) in the absence of the proposed joint marketing, lesser supply would be made available to the east coast gas market (as further Mereenie development is dependent on the proposed conduct). This means that in considering the 'future with and future without' the proposed conduct, there is unlikely to be a future without the proposed conduct in which new Mereenie reserves are available to market in the time period for which authorisation is sought;
- (d) the joint marketing would be limited in time, as the Applicants intend to engage in the proposed conduct for the period estimated to enter into the gas supply agreements

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<sup>30</sup> Central Petroleum, ASX Announcement, *Amadeus to Moomba Gas Pipeline: Proposed Boost to East Coast Gas Supplies*, 18 August 2020.

necessary to substantially underwrite the further development of the Mereenie field and support the foundation contracts for the AMGP;

- (e) the joint marketing arrangements will not extend to joint marketing of any other production by Central or trading of gas from other sources by Macquarie Mereenie; and
- (f) there are numerous competing sources of supply, including:
  - (i) all of the incumbent producers in the east coast gas market (which will continue to form the vast majority of supply in the market);
  - (ii) gas resources owned by companies associated with LNG facilities (which are now supplying material volumes into the domestic market);
  - (iii) Power and Water Corporation (in the Northern Territory) having contracted significant Northern Territory produced gas volumes surplus to its needs (including from a related body corporate of Central under a previously entered gas supply agreement and a 25 year contract for supply from the Blacktip offshore field and with likely incentives to increase supplies to other industrial users due to the Northern Territory's strategy of 50% renewable electricity generation by 2030);
  - (iv) Northern Territory offshore oil and gas resources being utilised for domestic sales (both existing fields like Blacktip which has greater production capacity and the pipeline connecting to Darwin that is required to meet the demands of the Darwin LNG project, and other offshore resources);
  - (v) numerous east coast gas developments (including those discussed in section 9.3 of this application); and
  - (vi) competition from LNG projects (as discussed in section 9.3 of this application).

While the Applicants appreciate that the ACCC has expressed concerns about the Gippsland Basin joint marketing arrangements in its original East Coast Gas Market Report, as discussed earlier in this application (particularly in section 6), the proposed conduct under this Application is fundamentally different. In particular:

- (a) it is for a much smaller scale of volume (much more akin to the Vali field authorisation the ACCC has recently authorised);
- (b) it involves a supply of more incremental volumes into the East Coast gas market rather than being joint marketing relating to an incumbent with a substantial share of existing production; and
- (c) the relevant part of the market (Northern Territory sales to East Coast gas customers) is not sufficiently mature and the relevant infrastructure is not sufficiently developed for independent marketing to East Coast customers of Northern Territory gas to be commercially viable for the Mereenie producers.

Consequently, the Applicants do not anticipate any lessening of competition or other public detriment arising from the joint marketing proposed under this Application.

As a result, the Applicants consider it is clear that the public benefits outweigh the public detriment (if any) of the proposed joint marketing, such that the proposed authorisation should be granted.

### **13 Interim Authorisation**

The Applicants are seeking interim authorisation for the proposed conduct, to enable them to engage in joint marketing in the period until commencement of the proposed authorisation (noting the expiry of the Previous Authorisation on 20 April 2021).

Any gas supply agreements entered into with customers during this period on the basis of interim authorisation would be subject to and fully conditional upon the final determination by the ACCC of this Application being in favour of authorisation, such that there could not be any public detriment.

The Applicants are requesting this interim authorisation as the Previous Authorisation has recently expired, and the statutory 6-month time frame for the ACCC considering this authorisation application will unduly delay further joint marketing contracts and is highly likely to reduce gas supply from the Mereenie field in 2022.

In the absence of interim authorisation, the Applicants acknowledge that the Previous Authorisation continues to authorise joint marketing for the balance of the term of a small number of contracts entered during the term of the Previous Authorisation and which remain on foot. However, in the absence of interim authorisation, where the parties want certainty of competition law compliance, they are effectively restricted to marketing the remaining uncontracted volume separately.

For all the reasons set out above in relation to the broader authorisation, separate marketing is highly problematic given the illiquid term-contract driven market opportunities which the Mereenie joint venture participants face. Separate discussions with customers since expiry of the Previous Authorisation have confirmed to the Applicants the real difficulties of separate marketing, even for a temporary period.

In particular, the Applicants consider that an interim authorisation permitting earlier (albeit conditional) joint marketing is appropriate as:

- (a) **there are a number of existing offers which were made by the Applicants on the basis of joint marketing prior to expiry of the previous Authorisation (as discussed in section 11.4 above)** – such that it would assist in those supplies being contracted for interim authorisation to be provided, and given the knowledge each Applicant has of the terms jointly offered to those customers, there is no plausible detriment to allowing to continue to progress as jointly marketed contracts
- (b) *[[Information redacted as confidential to the Applicants]]*
- (c) **there remains a near-term gas shortage on the east coast that requires development of new supply to resolve** – such that there are public benefits for:
  - (i) the state of competition and supply in domestic gas markets; and
  - (ii) the economic viability and investment certainty for gas users which are faced with making decisions about investments in downstream gas using facilities and assets,if CPM and Macquarie Mereenie are allowed to jointly market Mereenie production earlier that will facilitate Mereenie development and sales to east coast customers – even if that can only occur on a conditional basis;
- (d) **early supply visibility:** an interim authorisation will provide gas customers with the earliest opportunity to consider a new supply of gas to be made available in the market. The current gas market is under significant pressure to find viable sources of gas supply and make critical long-term business decisions. This early visibility of a new supply of gas can contribute to the efficient planning activities of gas customers and help to alleviate the shortfall that is looming – because many of the alternative sources of supply involve regulatory approval processes or other challenges making them uncertain alternatives;
- (e) **interim authorisation facilitates an early decision on investment in the Mereenie Stairway appraisal work to begin and is likely to result in sooner development of Mereenie and the AMGP:** With interim authorisation, the Mereenie joint venture participants will have sufficient confidence in their ability to jointly market to obtain joint venture approval and make an earlier start to the required appraisal work on the

Mereenie Stairway project to ensure they have sufficiently proved up 2P reserves to support long term gas sales. This field work can often take considerable time given long lead items and the need to coordinate market supply requirements with field design and technical capabilities. The Applicants note that the AMGP project was originally targeting a final investment decision in the 2<sup>nd</sup> half of 2021,<sup>31</sup> such that the appraisal work needs to have been completed as soon as possible, to ensure that commercial arrangements can be negotiated on the back of appraisal outcomes to ensure sufficient Mereenie gas is available to underwrite that infrastructure development;

- (f) **no long-term anticompetitive detriment due to conditionality of GSAs** - any GSAs negotiated under the interim authorisation would be conditional upon Authorisation being granted by the ACCC. There will be no long-term anticompetitive detriment in any market if Authorisation is ultimately refused by the ACCC, as the contracts would never come into effect; and
- (g) **will not change or amend the bargaining position:** the terms of the GSAs are anticipated to be relatively standard for the industry, and neither of the Mereenie joint venture participants are price setters in the market given the extensive competition that exists for east coast gas supply, such that allowing the Applicants to jointly market prior to final authorisation will not change or amend the bargaining position of the Applicants.

Accordingly, the Applicants are seeking interim authorisation as soon as practicable following this application, and preferably within a month.

The Applicants consider there is a real risk that if interim authorisation is not considered until a draft decision is issued 2-3 months into the authorisation process, it is likely that the window for gas marketing for the next calendar year will be missed and a lower volume of gas will be supplied from the Mereenie field in the 2022 contract year.

#### 14 Contact details of other potentially relevant stakeholders

*12. Identify and/or provide names and, where possible, contact details (phone number and email address) for likely interested parties such as actual or potential competitors, key customers and suppliers, trade or industry associations and regulators.*

The Applicants consider that each of the following Northern Territory parties will be potentially interested parties in the proposed conduct:

Stakeholder	Description	Contact Details
<b>Australia Gas Infrastructure Group</b>	Pipeline owner – and relevantly the developer of the proposed Amadeus to Moomba Gas Pipeline	<i>[Contact details redacted for privacy reasons]</i>
<b>Jemena</b>	Northern Gas Pipeline owner (connects the NT to the Mt Isa market)	<i>[Contact details redacted for privacy reasons]</i>
<b>Power and Water Corporation</b>	Vertically integrated competing gas supplier, and major gas customer. PWC has also purchased gas from Macquarie and Central in CY2020.	<i>[Contact details redacted for privacy reasons]</i>

<sup>31</sup> Central Petroleum Limited, *ASX announcement Amadeus to Moomba Gas Pipeline*, 18 August 2020.

<b>McArthur River Mining</b>	Zinc-lead mine in the NT. A current joint customer of Central and Macquarie.	<i>[Contact details redacted for privacy reasons]</i>
<b>EDL NGD (NT)</b>	Pine Creek Power Station in the NT. A current customer of Central.	<i>[Contact details redacted for privacy reasons]</i>

Given the wide number of potential East Coast gas customers, it is not practicable for the Applicants to provide details of all of the individual gas customers that may be interested parties.

## 15 Additional Information

13. Provide any other information or documents you consider relevant to the ACCC's assessment of the application.

The Applicants note the ACCC's recent Draft Decision proposing to grant authorisation for joint marketing to the joint venture participants in respect of the Vali field.<sup>32</sup>

The Applicants consider that the same reasoning that justifies the granting of that authorisation justifies the granting of the authorisation to the Applicants.

In particular:

- (a) there are public benefits in enabling earlier field development and bringing gas to market sooner than would otherwise occur;
- (b) there are public benefits in the form of reduced transaction costs and/or increased operating efficiencies for major customers and gas transmission pipeline operators (in dealing with the participants together in a single negotiation instead of multiple negotiations);
- (c) there will be no public detriment because the volumes of gas involved represents a very small proportion of total annual east coast market gas demand; and
- (d) the Applicants will continue to face significant competition from actual and potential rival suppliers of gas, such that the state of competition and pricing outcomes are likely to be the same with and without authorisation.

## 16 Conclusion

For the reasons set out in this application, the Applicants request that the ACCC approve the application for authorisation and interim authorisation of joint gas marketing from the Mereenie field by the Applicants.

The Applicants consider that the proposed joint gas marketing will provide clear public benefits including:

- (a) further investment by the Applicants in appraisal drilling and expansion of Mereenie gas production;
- (b) greater gas supply to the east coast gas market, assisting in alleviating the east coast gas supply shortfall that is anticipated;
- (c) creating the Amadeus Basin production required to facilitate the development of the Amadeus to Moomba gas pipeline – making the Northern Territory an economic source of gas for a wider range of customers, and facilitating greater development of other Northern Territory gas projects; and

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<sup>32</sup> ACCC, Vali Authorisation.

- (d) create transaction cost savings and increased efficiencies in negotiations with major gas customers and gas transmission pipeline operators.

As demonstrated during the period of the Previous Authorisation, the proposed joint gas marketing will not cause any lessening of competition or other detriment due to the competition that Applicants will continue to face, and will assist the Mereneie participants in restoring the gas lifting balance to transition towards a position where future independent marketing becomes possible.

Accordingly, the Applicants submit that the proposed authorisation should be granted, and interim authorisation should be granted to enable these benefits to be produced earlier than would otherwise be the case.

Please do not hesitate contact John Hedge of Allens on [REDACTED] if you have any queries for the Applicants in relation to aspects of this submission.



## Schedule 1

### Declaration by Applicant(s)

Authorised persons of the applicants must complete the following declaration. Where there are multiple applicants, a separate declaration should be completed by each 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 section 137.1 and 149.1 of the *Criminal Code* (Cth).

*[Signature redacted]*

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Signature of authorised person

John Hedge

(Print) Name of authorised person

Office held

Partner, Allens (signed as a solicitor on behalf of each of the Applicants)

This 28th day of July 2021

Note: If the Applicant is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Applicant, this fact must be stated.