

Hydrogen Park South Australia and Hydrogen Park Gladstone

Exemption Application

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1 Exemption Application

1.1. Application(s)

This document comprises two individual applications for exemption from ring-fencing requirements under rule 34 of the National Gas Rules (**NGR**), each made on behalf of Australian Gas Networks Limited (ACN 078 551 685) (**AGN**), in its capacity as service provider of the relevant distribution networks.

These applications relate to Hydrogen Park South Australia (HyP SA) located at the Tonsley Innovation District, Adelaide, South Australia, and Hydrogen Park Gladstone (HyP Gladstone) located in Gladstone, Queensland (together, the **Hydrogen Park Projects**). AGN's ownership and operation of the Hydrogen Park Projects constitutes a related business under the National Gas Law (**NGL**), being the business of producing primary gas (hydrogen) and providing blend processing services. The scope of, and basis for, these two applications are largely identical, save for the specific factual circumstances of each project.

AGN is seeking an exemption under rule 34 of the NGR from its obligations under sections 139 and 140 of the NGL in respect of each of the Hydrogen Park Projects:

- Section 139 of the NGL prohibits a service provider from carrying on a related business. AGN's production and blending of hydrogen at the Hydrogen Park Projects, and the provision of blend processing services, constitutes a related business for the purposes of section 139.
- Section 140 of the NGL prohibits the sharing of marketing staff between a service provider and an associate that takes part in a related business. In effect, AGN's marketing staff must not be officers, employees, consultants, independent contractors, or agents of any associate of AGN that takes part in the related business of the Hydrogen Park Projects, and AGN must ensure that none of its officers, employees, consultants, independent contractors or agents are marketing staff of such an associate.

2 Costs of Compliance outweigh benefits

The AER must grant an exemption from section 139 of the NGL if the AER is satisfied as to each of the criteria set out in rule 34(3) of the NGR. The AER must grant an exemption from section 140 of the NGL if the AER is satisfied that the cost of compliance with the relevant requirement for the service provider and its associates would outweigh the public benefit resulting from compliance (rule 34(4) of the NGR).

In this case, AGN submits there is no meaningful public benefit from imposing the obligations under sections 139 and 140 of the NGL on AGN with respect to the Hydrogen Park Projects. The intent of the ring-fencing provisions is to prevent an associate that takes part in a related business from obtaining a commercial advantage over its competitors on the basis of its shared ownership and operation structure with the service provider. Examples of the competitive harms the provisions are designed to address include where:

- a service provider may restrict access to its pipeline by a customer who competes (or potentially competes) with the service provider's related business;
- a service provider may provide its related business access to its pipeline on advantageous terms in comparison to the terms granted to the related business's competitors; or
- a service provider may receive information about its related business's competitors through the provision of a pipeline service and may allow the related business to utilise such knowledge to its competitive advantage.

Such risks do not arise in respect of the Hydrogen Park Projects. The Hydrogen Park Projects are small-scale renewable hydrogen trial facilities that produce hydrogen for blending into localised segments of AGN's distribution networks. As such, the hydrogen facilities do not compete against any shippers or gas producers that use AGN's distribution networks. There is no third party seeking to produce or inject hydrogen into the relevant network segments, and no competing demand for access to the relevant pipelines in relation to hydrogen blending services.

There is no risk of misuse of confidential information in relation to the Hydrogen Park Projects. There are no competitors operating in the market for the provision of hydrogen blending services on the relevant network segments. No third party has applied to connect a hydrogen production facility to the Gladstone distribution network or the Tonsley distribution area, and AGN is not aware of any proposals for competing hydrogen blending facilities on either network segment.

Accordingly, there is no ability or incentive for AGN to confer any competitive advantage on the Hydrogen Park Projects by virtue of its position as service provider. Imposing ring-fencing requirements in relation to the Hydrogen Park Projects would we submit have no impact on the competition dynamics in the relevant market. Accordingly, the public benefit from compliance is negligible.

Without an exemption, AGN will face material costs of compliance, including the direct cost of transferring ownership or control of the hydrogen injection facilities to separate entities within the group, and the indirect cost of duplicating management and administrative functions for small-scale trial projects. These matters are addressed in further detail in section 5 of this application.

3 Background

AGN is a major gas distribution network owner in Australia, with distribution networks in South Australia, Queensland, Victoria, New South Wales and the Northern Territory. AGN is part of Australian Gas Infrastructure Group (**AGIG**). The Hydrogen Park Projects are renewable hydrogen production and blending trial facilities developed by AGIG to demonstrate the viability of hydrogen blending in existing gas distribution networks as a pathway to decarbonisation.

Hydrogen Park South Australia (HyP SA):

Located at the Tonsley Innovation District, HyP SA was an Australian first project that produces renewable hydrogen gas and blends it with natural gas into a localised distribution area for supply to fewer than 4,000 residential and commercial customers in the surrounding suburbs of Mitchell Park, Clovelly Park and parts of Marion (referred to as the Tonsley distribution area).

Supported by the South Australian Government with grant funding of \$4.9 million, the \$14.5m project is aligned with the [State's vision](#) to leverage its wind, sun, land, infrastructure and skills through renewable hydrogen.

At HyP SA, renewable hydrogen is produced from water and renewable electricity¹ using a 1.25MW Proton Exchange Membrane (PEM) electrolyser.

HyP SA commenced production in May 2021, supplying 700 customers with an up to 5% (by volume) renewable gas blend, and was then expanded in March 2023 to supply a further 3000 customers in Adelaide's south in the suburbs of Mitchell Park, Clovelly Park and parts of Marion. This includes households, businesses and schools.

In March 2024, the renewable gas blend was increased from up to 5% to up to 10% (by volume). From April 2026, the renewable gas blend was increased again, to up to 15% (by volume).

In addition to supplying the local network, the facility has demonstrated the ability to supply industry and transport sectors with pure (100%) hydrogen directly via tube trailers (high-pressure storage tubes on the back of semi-trailers).

The renewable hydrogen supplied into the Tonsley distribution area is metered at the HyP SA site. By way of background, it is proposed that the hydrogen will be attributed a value through arrangements with a third party and use of the Short-Term Trading Market administered by AEMO. This is purely a financial exercise and does not have any impact on or vary the amount of renewable hydrogen supplied into the Tonsley distribution area. This initiative will also enable GreenPower Renewable Gas Guarantee of Origin (RGGO) and/or Product GO certificates to be created and subsequently sold to industrial customers.

HyP SA demonstrates renewable hydrogen production and blending technology in an Australian context and is a step towards lowering greenhouse gas emissions for customers.

¹ AGN purchase (and voluntarily surrender) Large Scale Generation Certificates as required to ensure the electricity used to produce hydrogen is renewable.

Hydrogen Park Gladstone (HyP Gladstone):

HyP Gladstone is a small demonstration facility (~\$7.9m) in Queensland which produces renewable hydrogen to help decarbonise the reticulated gas supply in Gladstone. The project is supported by the Queensland Government with \$2.73m grant funding from the Hydrogen Industry Development Fund.

Since November 2024, HyP Gladstone has been blending hydrogen at up to 10% by volume into the Gladstone gas distribution network. The facility produces renewable hydrogen using a 175kW electrolyser - with water and renewable electricity (that is sourced from the grid). The electricity is matched with Large-scale Generation Certificates (LGC's), which are procured and surrendered as required to ensure the electricity used is renewable. There are approximately 700 customers connected to this network who receive the renewable gas blend.

3.1. Previous Exemptions

HyP SA and HyP Gladstone are currently exempt from the ring-fencing requirements by virtue of deemed exemptions under the transitional provisions in Part 2 of Schedule 7 to the NGR. These deemed exemptions were included in the rules as part of the reforms which extended the national gas regulatory framework beyond natural gas to include hydrogen and other renewable gases. The deemed exemptions applied because the projects were designated trial projects satisfying the conditions described in Schedule 7. These exemptions are due to lapse on 30 November 2026, necessitating this application for exemption under rule 34 of the NGR.

4 AGN's ring-fencing obligations

The ring-fencing provisions in Part 2 of Chapter 4 of the NGL apply to AGN as a service provider. AGN owns, controls and operates gas distribution pipelines in South Australia and Queensland (among other jurisdictions), and is therefore a service provider for the purposes of the NGL. The minimum ring-fencing requirements require AGN to:

- not carry on a related business (section 139 of the NGL);
- not share its marketing staff with an associate that takes part in a related business, and conversely, an associate in a related business cannot share marketing staff with AGN (section 140 of the NGL); and
- prepare, maintain and keep separate accounts in respect of pipeline services provided by means of every pipeline owned, operated or controlled by AGN, as well as a consolidated set of accounts in respect of the whole of AGN's business (section 141 of the NGL).

AGN's ownership and operation of the Hydrogen Park Projects, being facilities that produce hydrogen and provide blend processing services, constitutes the carrying on of a related business for the purposes of section 139 of the NGL.

In the absence of an exemption, sections 139 and 140 require that:

- AGN divest ownership and control of the hydrogen injection facilities to separate entities within the group that are not service providers (to comply with section 139); and
- AGN's marketing staff be separated from any staff involved in the production, marketing or sale of hydrogen produced by the Hydrogen Park Projects (to comply with section 140).

Such divestiture and separation would involve costs associated with corporate restructuring, transfer of assets, potential taxation implications, and ongoing duplication of management and administrative functions. These costs are addressed further in section 5 of this application.

5 Exemption Criteria

Under rule 34(3) of the NGR, the AER must grant an exemption from section 139 of the NGL if it is satisfied that:

- (a) either:
- (i) the relevant pipeline is not a significant part of the pipeline system for any participating jurisdiction; or

- (ii) the service provider does not have a significant interest in the relevant pipeline and does not actively participate in the management or operation of the pipeline;
- (b) the cost of compliance with the relevant requirement for the service provider and its associates would outweigh the public benefit resulting from compliance; and
- (c) the service provider has, by arrangement with the AER, established internal controls that substantially replicate the controls that would apply to associate contracts if the related business was carried on by an associate of the service provider and sections 147 and 148 of the NGL applied.

Under rule 34(4), the AER must grant an exemption from section 140 of the NGL if it is satisfied that the cost of compliance with the relevant requirement for the service provider and its associates would outweigh the public benefit resulting from compliance.

For the reasons set out below AGN submits that it satisfies each of these criteria in respect of both HyP Gladstone and HyP SA.

In respect of (a), AGN submits the relevant criteria in AGN's circumstances is (a)(i). Neither the Gladstone distribution network nor the Tonsley distribution area are significant parts of the pipeline system of a jurisdiction. In respect of (b) there would be negligible public benefit from the implementation of ring fencing as compared to substantial compliance costs. As to (c), AGN already complies with these requirements as part of its existing exemption and reports to the AER on such compliance².

These matters are discussed further below.

5.1. HyP SA Gladstone – the relevant pipeline is not a significant part of the pipeline system

AGN owns and operates a small gas distribution network servicing the town of Gladstone in Queensland. The township is serviced by a relatively limited local distribution network of approximately 700 customers.

The Gladstone distribution area is physically isolated from all other Queensland distribution networks operated by AGN. It does not form part of a broader interconnected distribution system. Rather, the Gladstone distribution network is supplied from the Queensland Gas Pipeline.

AGN services approximately 110,000 customers across Queensland. The Gladstone distribution area, with approximately 700 total customers receiving the hydrogen blend, represents less than 0.7% of AGN's Queensland customer base. Having regard to each of pipeline capacity, volume of throughput, number of users, and the role of the pipeline in connecting supply and demand, the Gladstone distribution area is a small, localised system that does not serve a critical function in the broader Queensland pipeline system.

The Gladstone distribution area is, in summary a discrete and minor part of the overall pipeline infrastructure in Queensland. It is not a significant part of the pipeline system of Queensland.

Accordingly, AGN submits that it satisfies the criterion in rule 34(3)(a)(i) with respect to HyP Gladstone. The Gladstone distribution area, being the relevant pipeline for the purposes of this exemption application, is not a significant part of the pipeline system for Queensland.

5.2. HyP SA Tonsley – the relevant pipeline is not a significant part of the pipeline system

HyP SA is located at the Tonsley Innovation District, a southern suburb of Adelaide. The hydrogen injection facility produces renewable hydrogen using a 1.25 MW electrolyser with 40 kg of on-site storage capacity, and delivers a blend of hydrogen and natural gas to the Tonsley distribution area.

While AGN does operate the Adelaide gas distribution network, the Tonsley distribution area is operationally distinct from the remainder of that network. The customers in the Tonsley distribution area receive a blended fuel supply comprising hydrogen and natural gas, whereas customers on the remainder of the network receive natural gas only. The current injection volumes are sufficiently low that the blended gas stream is not able to extend beyond the suburbs directly surrounding the Tonsley distribution area. This operational distinction means that the Tonsley distribution area functions as a discrete system for the purposes of the hydrogen blending operations and operates as a self-contained system, supported and managed by valves and network design.

² Through the Annual Compliance Report and supporting Ring-fencing manual provided to the AER.

The Tonsley distribution area, being the relevant pipeline for the purposes of this exemption application, is not a significant part of the pipeline system in South Australia. AGN services approximately 480,000 customers across South Australia. The Tonsley distribution area, with fewer than 4,000 customers, represents approximately 0.8% of AGN's South Australian customer base. The Tonsley distribution area services a limited number of residential and commercial customers in a localised area and does not constitute a material component of the broader South Australian gas distribution system. By reference to any of the criteria of pipeline capacity, volume of throughput, number of customers and role of the pipeline in the management of the Adelaide distribution system, the Tonsley distribution area is not a significant pipeline.

Accordingly, AGN submits that it satisfies the criterion in rule 34(3)(a)(i) with respect to HyP SA. The Tonsley distribution area, being the relevant pipeline for the purposes of this exemption application, is not a significant part of the pipeline system for South Australia.

5.3. Cost of compliance outweighs public benefit

AGN further submits that, in relation to both HyP Gladstone and HyP SA, the cost of compliance with sections 139 and 140 of the NGL for AGN and its associates would outweigh the public benefit resulting from compliance, thereby satisfying the criteria in rules 34(3)(b) and 34(4) of the NGR.

Both HyP Gladstone and HyP SA are small-scale hydrogen trial projects that service a limited number of customers in localised areas. The Gladstone distribution area services a small town and the Tonsley distribution area services a suburban pocket of Adelaide's south. In neither case does the hydrogen blending activity give rise to any realistic prospect of competitive harm of the kind that the ring-fencing provisions are designed to address. There is no competing demand for access to the relevant pipeline segments in relation to hydrogen blending services, and no risk of AGN conferring an unfair competitive advantage on a related business to the detriment of third parties.

No competition harm posed to any network users

The Hydrogen Park Projects produce hydrogen for blending into localised segments of AGN's distribution networks. They do not compete against any shippers, gas producers or retailers that use AGN's distribution networks. No third party has sought to establish a competing hydrogen production or blending facility on either the Gladstone distribution area or the Tonsley distribution area. There is no competing demand for access to the relevant pipeline segments in relation to hydrogen blending services. There has been no history of preference given to the Hydrogen Park Projects in relation to network access or operation. Accordingly, AGN's ownership and operation of the Hydrogen Park Projects does not give rise to any unfair competitive advantage which the ring-fencing framework is designed to address.

No effect on competition

There are currently no active developments for hydrogen blending in distribution networks anywhere in Australia that would give rise to a competitive market for the provision of hydrogen blending services. The market for hydrogen production and blending in distribution networks is in its infancy and is characterised by small-scale trial and demonstration projects, typically supported by government grant funding. A competitive market would need to exist before competitiveness could become a concern, and no such market exists at present. There is no real commercial likelihood of an alternate hydrogen blending facility being established on either the Gladstone distribution area or the Tonsley distribution area in competition with the Hydrogen Park Projects in the foreseeable future. Imposing ring-fencing obligations with respect to the Hydrogen Park Projects is unlikely to change the competitive conditions of any relevant market.

No risk of misuse of confidential information

There is no risk of misuse of confidential information in relation to the Hydrogen Park Projects. In the absence of any competitors in the market for hydrogen blending services on the relevant network segments, there is no confidential information that AGN could exploit to the detriment of third parties. As noted above, no third party has applied to connect a hydrogen production facility to the Gladstone distribution area or the Tonsley distribution area, and AGN is not aware of any proposals for competing hydrogen blending facilities on either network segment.

Possible public detriment from compliance

It is relevant to consider possible public detriments as part of the assessment of public benefits. AGN considers that there is a public detriment which would arise from ring-fencing compliance in circumstances where there is no real likelihood of consumer harm. Imposing ring-fencing requirements too early in the development of the hydrogen industry would hinder its development, as

network operators such as AGN are the entities with the technical capability, existing infrastructure and incentives to develop and operate trial projects that, in the short term, are unlikely to be economic on a standalone basis.

Requiring AGN to divest the Hydrogen Park Projects to separate non-service-provider entities would add cost and complexity to small trial projects that are already unlikely to be economic in the short term. This could undermine the continued operation of the projects and, by extension, the broader public interest in the development of a hydrogen industry and the reduction of greenhouse gas emissions in the gas sector. The national gas objective promotes efficient investment in, and efficient operation and use of, covered gas services for the long-term interests of consumers, including with respect to the achievement of targets for reducing Australia's greenhouse gas emissions. Granting the exemptions sought would be consistent with this objective.

The cost of compliance would be disproportionate to any public benefit. Compliance with section 139 would require AGN to divest ownership and control of the Hydrogen Park Projects to separate entities within the group that are not service providers, involving costs associated with corporate restructuring, transfer of assets, and ongoing duplication of functions. As the operation of the Hydrogen Park Projects is managed by a very small team of approximately 4 people, this would require the team to outsource the operation, maintenance and control of both sites to third party contractors at a material premium to current costs. This would be an inefficient allocation of resources for the management of small-scale trial projects that are currently integrated into AGIG's existing operational infrastructure at minimal incremental cost.

Compliance with section 140 would require AGN to segregate its marketing staff and employees from being involved in the hydrogen production and sale activities of the Hydrogen Park Projects. Given the small scale of the projects, the cost of maintaining dedicated, structurally separated marketing staff for the Hydrogen Park Projects would be disproportionate to the revenue generated by these trial facilities

In addition to the direct costs identified above, compliance would result in a meaningful loss of operational efficiency. The Hydrogen Park Projects would be removed from the scope of AGIG's existing specialist teams. The operational knowledge and expertise that currently resides within the AGN's technical operations team in relation to the Hydrogen Park Projects would be lost to the ring-fenced entity, resulting in duplication of functions and a reduction in service quality for both the trial projects and their customers.

As there is no realistic prospect in foreseeable future of increased competition in upstream or downstream markets from the separation of the Hydrogen Park Projects from AGN's pipeline business, there are no costs arising from increased competition that need to be taken into account in the AER's assessment of the cost of compliance as required by rule 34(5) of the NGR.

6 Proposed exemption terms and conditions

AGN acknowledges that the assessment of costs and public benefits is based on the markets and market conditions in existence at the time of this application. AGN considers that any risk from factual circumstances changing can be mitigated through the following conditions:

- AGN will notify the AER without delay if circumstances change such that AGN no longer qualifies for the exemption, in accordance with rule 34(6) of the NGR.
- AGN will notify the AER if there is a material change in the nature or scale of the Hydrogen Park Projects, including any proposal to significantly expand the hydrogen production capacity or extend the geographic reach of hydrogen blending beyond the current network segments.
- AGN will notify the AER if a third party seeks to connect a hydrogen production facility to either the Gladstone distribution area or the Tonsley distribution area.

6.1. Timing

AGN seeks exemptions from sections 139 and 140 of the NGL in respect of both HyP SA and HyP Gladstone to take effect from 30 November 2026 when the current deemed exemptions under Schedule 7 of the NGR expire. If AER is unable to make a decision by this date, AGN requests that the AER confirm that it does not intend to take enforcement action in respect of AGN's continued ownership and operation of the Hydrogen Park Projects pending the AER's decision on this application.