Australian Government

AUSTRALIAN ENERGY REGULATOR

Ring-fencing exemption determination – AGN

Final decision

November 2026

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Summary

The Australian Energy Regulator (AER) has made a final decision to grant Australian Gas Networks Limited (AGN) exemptions from the minimum ring-fencing requirements in sections 139 and 140 of the National Gas Law (NGL) in relation to its two projects: Hydrogen Park Gladstone (HyP Gladstone) and Hydrogen Park South Australia (HyP SA) (the projects). This final decision takes effect on 30 November 2026 when the projects' existing deemed exemptions expire and remains in effect for five years until 30 November 2031.

The AER's final decision to grant the exemptions is subject to the conditions[1] set out in section 7 of this final decision. We consider that these conditions are sufficient to make the AER aware of any relevant changes in circumstances that may warrant a review of the exemptions. The five-year exemption period reflects the evolving nature of the renewable gas market and enables any future exemption application to be reassessed in accordance with relevant and contemporaneous information.

An exemption from section 139 of the NGL allows AGN to carry on its related business of producing and blending hydrogen at HyP Gladstone and HyP SA. An exemption from section 140 of the NGL means that AGN is not required to maintain separate marketing staff for HyP Gladstone and HyP SA.

This final decision follows our draft decision made in October 2026. We received one submission to the draft decision, from the Centre for Smart Power and Energy Research (CSPER), Deakin University. The submission and the AER's response to it are discussed in section 5 of this final decision.

In making this final decision, we assessed each project against the relevant criteria in rule 34 of the National Gas Rules (NGR).[2] We are satisfied that:

HyP Gladstone:

- is not a significant part of the Queensland pipeline system
- the costs of compliance with sections 139 and 140 of the NGL would outweigh the public benefit resulting from compliance
- AGN has established internal controls that substantially replicate the relevant associate contract controls.

HyP SA:

- is not a significant part of the South Australian pipeline system
- the costs of compliance with sections 139 and 140 of the NGL would outweigh the public benefit resulting from compliance
- AGN has established internal controls that substantially replicate the relevant associate contract controls.

1 National Gas Law (NGL), section 148A(2).

2 Rule 34 of the National Gas Rules (NGR) is provided in Appendix A.

1 Background

1.1 HyP Gladstone and HyP SA

HyP Gladstone is a renewable hydrogen project in Gladstone, Queensland. Since November 2024, it has supplied renewable gas to approximately 700 customers, blending up to 10% hydrogen by volume into the Gladstone gas distribution network.

HyP SA is a renewable hydrogen project in the Tonsley Innovation District, south of Adelaide. It supplies fewer than 4,000 residential and commercial customers in the surrounding suburbs of Mitchell Park, Clovelly Park and parts of Marion (the Tonsley distribution area), with a renewable gas blend containing up to 15% hydrogen by volume.

1.2 AGN's exemption applications

On 13 August 2026, AGN submitted two applications in a single document under rule 34 of the NGR, seeking exemptions from the minimum ring-fencing requirements in sections 139 and 140 of the NGL for the projects.

Section 139 of the NGL prohibits a service provider from carrying on a related business, while section 140 of the NGL prohibits its marketing staff from taking part in a related business.

AGN is taken to have been granted an exemption from the minimum ring-fencing requirements in sections 139 and 140 in relation to the projects until 30 November 2026[3] These deemed exemptions were introduced as part of reforms that extended the national gas regulatory framework to include hydrogen and other renewable gases.

AGN sought that the exemptions take effect from 30 November 2026, following the expiry of the deemed exemptions. The AER assessed each application against the exemption criteria set out in section 2 of this final decision. As such, the existence of the deemed exemptions has not informed our assessment.

1.3 What is ring-fencing?

Ring-fencing refers to the separation of gas pipeline services from related businesses. The ring-fencing provisions in the NGL aim to prevent related businesses from gaining a competitive advantage through common ownership or operation of a pipeline. In these situations, the service provider may have market power. For example, a service provider could provide a related business with preferential access or pricing terms, potentially affecting gas prices or disadvantaging competitors.

The NGL sets out the minimum ring-fencing requirements[4] for service providers in relation to:

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3 NGR, Schedule 7, Part 2, rule 2(4).

4 NGL, Chapter 4, Part 2, Division 2.

- carrying on a related business;
- marketing staff taking part in a related business;[5]
- preparing, maintaining and keeping separate accounts.

A related business[6] means the following:

- the provision of a blend processing service;
- the business of producing primary gas,[7] processable gas or biogas;
- the business of purchasing or selling covered gas, processable gas or biogas, but does not include purchasing or selling covered gas, processable gas or biogas to the extent necessary:
  - for the safe and reliable operation of a pipeline; or
  - to enable a service provider to provide balancing services in connection with a pipeline.

The NGR allows service providers to apply to the AER for an exemption from one or more of the minimum ring-fencing requirements.[8] It recognises that, in some circumstances, strict adherence to the ring-fencing obligations may result in outcomes that are not the long-term interests of consumers.

5 Marketing staff has the meaning given in section 138 of the NGL.

6 NGL, section 137.

7 Primary gas has the meaning given in the NGL.

8 NGR, rule 34(1).

2 Criteria for exemption

The criteria for granting an exemption from the minimum ring-fencing requirements are set out in rule 34 of the NGR. Under rule 34(3), the AER must grant an exemption from section 139 of the NGL, if satisfied that:

  - either:
    - the relevant pipeline is not a significant part of the pipeline system for any participating jurisdiction; or
    - 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; and
  - the costs of compliance with the relevant requirement for the service provider and its associates would outweigh the public benefit resulting from compliance; and
  - 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.
- Rule 34(4) requires the AER grant an exemption from section 140 of the NGL if 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.

Where the AER considers that compliance with a relevant requirement would lead to increased competition in a market, rule 34(5) of the NGR requires the AER to disregard compliance costs associated with losses arising from increased competition in upstream or downstream markets. Further, before granting an exemption under rule 34 of the NGR, rule 35 of the NGR requires the AER to consider whether to impose conditions on the exemption.

Our final decision is based on whether an application meets the criteria set out in the NGL and NGR, guided by the National Gas Objective (NGO).[9] The NGO is to promote efficient investment in, and efficient operation and use of, covered gas services for the long-term interests of consumers of covered gas with respect to:

- the price, quality, safety, reliability and security of supply of covered gas; and
- the achievement of targets set by a participating jurisdiction
  - for reducing Australia's greenhouse gas emissions; or
  - that are likely to contribute to reducing Australia's greenhouse gas emissions.

The AER's *Gas ring-fencing decision guide*[10] provides further information on the assessment framework and the AER's approach to assessing applications for exemptions from minimum ring-fencing requirements.

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9 NGL, section 23.

10 AER, *Gas ring-fencing decision guide*, 1 November 2024.

3 Assessment – HyP Gladstone

3.1 Pipeline significance

AGN submitted that HyP Gladstone is not a significant part of the Queensland pipeline system. HyP Gladstone is connected to the Gladstone distribution network, owned and operated by AGN. The Gladstone distribution network is a small and physically isolated distribution network serving approximately 700 customers, representing less than 0.7% of AGN's Queensland customer base.[11] HyP Gladstone accounts for a very small proportion of throughput volumes across the wider Queensland network.[12]

AER position

Having regard to the scale of HyP Gladstone, the number of customers served, throughput volumes and the role of the network within the broader Queensland pipeline system, we are satisfied that HyP Gladstone is not a significant part of the Queensland pipeline system and therefore satisfies rule 34(3)(a)(i) of the NGR.

3.2 Would compliance costs outweigh the public benefit from compliance?

Cost of compliance with section 139 of the NGL

AGN submitted that compliance with section 139 of the NGL would require the transfer of HyP Gladstone to a separate entity, resulting in costs associated with asset transfers, potential stamp duty and corporate income tax, licence transfers and corporate restructuring.

AGN estimated that the total one-off cost of compliance with the ring-fencing requirements would be between $500,000 and $1,000,000. This estimate included duty and taxation costs associated with transferring ownership of HyP Gladstone. In addition, ASIC fees, regulatory, legal and accounting setup costs would be between $2,000 and $6,000. The technology and support in establishing a new entity, e.g. SAP ERP setup and other related applications, would cost between $50,000 and $100,000.[13]

Cost of compliance with section 140 of the NGL

AGN also identified ongoing costs associated with maintaining separate marketing staff to comply with section 140 of the NGL. AGN submitted that compliance would reduce operational efficiency by requiring duplication of functions and removing HyP Gladstone from existing specialist and technical operations teams.

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11 AGN, *Hydrogen Park South Australia and Hydrogen Park Gladstone Exemption Application*, 13 August 2026.

12 AGN, *Response to the AER request for information - Ring Fencing Exemption Application – Hydrogen Park South Australia and Hydrogen Park Gladstone*, 4 September 2026.

13 AGN, *Response to the AER request for information - Ring Fencing Exemption Application – Hydrogen Park South Australia and Hydrogen Park Gladstone*, 10 September 2026.

AGN estimated that employing a dedicated marketing employee would result in ongoing remuneration costs, including a discretionary short-term incentive payment (bonus). In addition, costs for recruitment, training, travel, support and resources such as IT equipment would be incurred.[14]

AGN further submitted that compliance may create a public detriment by increasing costs and complexity for a small trial project and potentially hinder the development of renewable gas technologies and associated emissions reduction benefits.

Treatment of costs associated with losses arising from increased competition in a market

Rule 34(5) of the NGR requires the AER to disregard costs associated with losses arising from increased competition in upstream or downstream markets where compliance with a relevant requirement would, in the AER's opinion, lead to increased competition in a market.

In the current circumstances, we consider that requiring compliance with sections 139 and 140 of the NGL would be unlikely to materially increase competition in the supply of blended hydrogen in the area served by HyP Gladstone. This conclusion is based on the absence of competing hydrogen blending facilities, third parties seeking access to the Gladstone distribution network to produce or inject hydrogen, and competing demand for hydrogen blending services.

Accordingly, we do not consider that rule 34(5) of the NGR is relevant to our assessment of whether the cost of compliance with sections 139 and 140 would outweigh the public benefit resulting from compliance.

AER position

We accept that compliance with sections 139 and 140 would result in material one-off and ongoing costs and reduce operational efficiency. We also consider that requiring AGN to comply with sections 139 and 140 would not lead to increased competition in the market and that rule 34(5) of the NGR is therefore not relevant to the AER's assessment under subrule (3)(b) and subrule (4).

Public benefit resulting from compliance with sections 139 and 140 of the NGL

AGN submitted that compliance with ring-fencing obligations for HyP Gladstone would provide negligible public benefit and that there is no risk of competition harm, preferential treatment or misuse of commercially sensitive information.

AER position

We accept that the absence of current competition reduces immediate competition concerns that ring-fencing obligations are intended to address and that the public benefit appears limited. However, these concerns may arise if market circumstances change in the future.

The exemption conditions set out in section 7 of this final decision require AGN to notify us of relevant changes in circumstances, including any formal third-party request for connection or

[14] AGN, *Response to the AER request for information - Ring Fencing Exemption Application – Hydrogen Park South Australia and Hydrogen Park Gladstone*, 10 September 2026.

access. Upon notification, we will assess whether the changes affect the basis for the exemption and whether further action is required, including varying or revoking the exemption. Having regard to the limited public benefit of compliance and the associated costs of compliance, the AER considers that the costs of compliance outweigh the public benefit resulting from compliance.

3.3 Internal controls

AGN submitted that it currently operates under the ring-fencing framework established for the purposes of the existing deemed exemptions and has provided the AER with annual compliance reporting and a ring-fencing manual.

AER position

AGN's ring-fencing manual contains controls relating to confidentiality, notification obligations and governance arrangements to manage risks associated with undertaking related business activities while maintaining appropriate safeguards around competition, competitive parity and information sharing.

Based on our review of AGN's ring-fencing manual (as provided to the AER), we are satisfied that AGN has established internal controls that substantially replicate the relevant associate contract controls for HyP Gladstone.

3.4 Consideration of the NGO

The NGO requires the AER to promote the long-term interests of consumers through efficient investment in, and operation and use of, covered gas services, including by contributing to the achievement of jurisdictional targets for reducing greenhouse gas emissions.

AER position

We consider that granting a ring-fencing exemption to HyP Gladstone would promote the NGO by avoiding material compliance costs and operational inefficiency in circumstances where the public benefit of compliance is limited. The exemption would support the efficient operation of HyP Gladstone while maintaining safeguards against future competition concerns through the exemption conditions. The exemption would also support the continued operation of a renewable hydrogen project that contributes to Queensland's emissions reduction targets.[15]

[15] See Net Zero Economic Authority, *AGIG's Hydrogen Park Gladstone (HyP Gladstone)* [accessed 2 October 2026].

4 Assessment – HyP SA

4.1 Pipeline significance

AGN submitted that HyP SA is not a significant part of the South Australian pipeline system. HyP SA is located in Adelaide's Tonsley Innovation District and supplies a blend of hydrogen and natural gas to the Tonsley distribution network. AGN submitted that the Tonsley distribution network is operationally distinct from the broader Adelaide distribution network.

The Tonsley distribution network serves fewer than 4,000 customers, representing approximately 0.8% of AGN's South Australian customer base.[16] AGN also submitted that throughput associated with the Tonsley distribution network represents an immaterial proportion of annual throughput across the wider Adelaide network.[17]

AER position

Having regard to the localised nature of HyP SA, the limited number of customers served, the small throughput volumes relative to the wider Adelaide network, and the role of the Tonsley distribution network within the broader South Australian pipeline system, we are satisfied that HyP SA is not a significant part of the South Australian pipeline system and therefore satisfies rule 34(3)(a)(i) of the NGR.

4.2 Would the compliance outweigh the public benefit from compliance?

Cost of compliance with section 139 of the NGL

AGN's submissions regarding the cost of compliance with section 139 of the NGL for HyP SA are substantially the same as those made in relation to HyP Gladstone. AGN submitted that compliance would require the transfer of HyP SA to a separate entity, resulting in one-off and ongoing costs and reduced operational efficiency.

AGN estimated that the total one-off cost of compliance with the ring-fencing requirements would be between $750,000 and $2,000,000. This estimate included corporate income tax and stamp duty costs associated with transferring ownership of HyP SA (if the relevant stamp duty exemption is not granted). In addition, ASIC fees, regulatory, legal and accounting setup costs would be between $2,000 and $6,000. The technology and support in establishing a new entity, e.g. SAP ERP setup and other related applications, would cost between $50,000 and $100,000.[18]

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16 AGN, *Hydrogen Park South Australia and Hydrogen Park Gladstone Exemption Application*, 13 August 2026.

17 AGN, *Response to the AER request for information - Ring Fencing Exemption Application – Hydrogen Park South Australia and Hydrogen Park Gladstone*, 4 September 2026.

18 AGN, *Response to the AER request for information - Ring Fencing Exemption Application – Hydrogen Park South Australia and Hydrogen Park Gladstone*, 10 September 2026.

Cost of compliance with section 140 of the NGL

AGN also identified ongoing costs associated with maintaining separate marketing staff to comply with section 140 of the NGL. AGN submitted that compliance would reduce operational efficiency by requiring duplication of functions and removing HyP SA from existing specialist and technical operations teams.

AGN estimated that employing a dedicated marketing employee would result in ongoing remuneration costs, including a discretionary short-term incentive payment (bonus). In addition, costs for recruitment, training, travel, support and resources such as IT equipment would be incurred.[19]

Treatment of costs associated with losses arising from increased competition in a market

Rule 34(5) of the NGR requires the AER to disregard costs associated with losses arising from increased competition in upstream or downstream markets where compliance with a relevant requirement would, in the AER's opinion, lead to increased competition in a market.

As discussed in section 4.4 of this final decision, we identified the Wasleys Renewable Natural Gas Facility and the SA1 Salisbury Bioenergy Plant as potentially relevant renewable gas projects in South Australia. Neither project appears to compete directly with HyP SA in the supply of blended hydrogen within the Tonsley area served by the project.

In current circumstances, we consider requiring compliance with sections 139 and 140 of the NGL would be unlikely to materially increase competition in the supply of blended hydrogen within the area served by HyP SA. This is because we have not identified any competing hydrogen blending facilities, prospective competitors, or third parties seeking access to the Tonsley distribution network for hydrogen production or blending activities.

Accordingly, we do not consider that rule 34(5) of the NGR is relevant to our assessment of whether the cost of compliance with sections 139 and 140 would outweigh the public benefit resulting from compliance.

AER position

We accept that compliance with sections 139 and 140 would result in material one-off and ongoing costs and that compliance would reduce operational efficiency. We also consider that requiring AGN to comply with sections 139 and 140 would not lead to increased competition in the market and that rule 34(5) of the NGR is therefore not relevant to the AER's assessment under subrule (3)(b) and subrule (4).

Public benefit resulting from compliance with sections 139 and 140 of the NGL

AGN's submissions regarding the public benefit of compliance for HyP SA are substantially the same as those made in relation to HyP Gladstone. AGN submitted that there are no other hydrogen blending facilities, third parties seeking access to produce or inject hydrogen, or

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19 AGN, *Response to the AER request for information - Ring Fencing Exemption Application – Hydrogen Park South Australia and Hydrogen Park Gladstone*, 10 September 2026.

competing demand for hydrogen blending services. AGN also submitted that compliance may increase costs and complexity for a small renewable hydrogen project.

AER position

Based on the available information, we consider that the public benefit resulting from compliance is limited in the current circumstances and that the costs of compliance outweigh the public benefit of compliance. However, competition concerns may arise if market circumstances change in the future.

The exemption conditions set out in section 7 of this final decision ensure that we can reassess the exemption if competition concerns arise. Having regard to the limited public benefit of compliance and the associated costs of compliance, the AER considers that the costs of compliance outweigh the public benefit resulting from compliance.

4.3 Internal controls

AGN's submissions regarding internal controls for HyP SA are substantially the same as those made in relation to HyP Gladstone. AGN submitted that it already complies with requirements that substantially replicate the relevant associate contract controls through its existing ring-fencing framework, compliance reporting and ring-fencing manual.

AER position

For the reasons set out in section 3.3 of this final decision, which apply equally to HyP SA, we are satisfied that AGN has established internal controls that substantially replicate the relevant associate contract controls.

4.4 Competitive circumstances relevant to HyP SA

Potentially relevant renewable gas projects

We identified two potentially relevant renewable gas projects in South Australia and considered their relevance to the competitive circumstances surrounding HyP SA. These are discussed below.

Wasleys Renewable Natural Gas Facility

We identified Wasleys Renewable Natural Gas Facility (Wasleys facility) as a potentially relevant renewable gas project in South Australia and considered its relevance to the competitive circumstances surrounding HyP SA.[20] The facility is expected to come online in mid-2027 and will produce biomethane[21] from piggery effluent. It will inject approximately 40 terajoules of renewable gas into the South Australian gas network each year.[22] We sought

[20] See *LMS Energy, Wasleys Renewable Natural Gas Facility* [accessed 2 September 2026].

[21] We note that both biomethane and hydrogen are covered gases under the NGL.

[22] See Media release - LMS Energy, *Pig poo to power: South Australian piggery to become Australia's first agricultural renewable gas producer* [accessed 4 September 2026].

further information from AGN and LMS Energy regarding the Wasleys facility and whether it may affect the exemption assessment for HyP SA.

Wasleys sub-network forms part of AGN's South Australian Distribution Network[23] and receives natural gas from the Moomba to Adelaide Pipeline System (MAPS), owned by Epic Energy, through the Wasleys connection point.[24] The Wasleys facility is expected to inject renewable gas downstream into the local sub-network, rather than into MAPS.

AGN considered that the Wasleys facility would not compete with HyP SA for renewable gas supply because Wasleys and Tonsley sub-networks are physically separate and gas between the two networks cannot co-mingle. AGN submitted that gas produced by the Wasleys facility would be supplied to the physically separate Wasleys sub-network and would not be injected into the MAPS due to pressure limitations.[25]

LMS Energy did not identify any current competition concerns arising from AGN's ownership and operation of HyP SA or the exemption.

SA1 Salisbury Bioenergy Plant

We identified the SA1 Salisbury Bioenergy Plant as a potentially relevant renewable gas project in South Australia. It is Australia's first commercial-scale facility that is intended to produce approximately 200 TJ per year of mains-grade biomethane, as well as biogenic carbon dioxide from commercial and industrial organic waste. The plant is currently progressing towards waste acceptance and first biomethane injection into the Adelaide gas network.[26] The biomethane will be injected into AGN's South Australian gas network, with an offtake agreement in place with Origin Energy.[27]

The AER invited Delorean Corporation to discuss AGN's exemption application. Delorean Corporation did not participate in the consultation prior to the release of this final decision.

AER position

We accept that physical separation between the Tonsley and Wasleys sub-networks reduces the likelihood of competition between HyP SA and the Wasleys facility. We also note that no third party has sought access to the Tonsley distribution network for hydrogen production or blending activities. On the available information, we do not consider that the Wasleys facility currently competes with HyP SA for the supply of renewable gas.

Having regard to SA1 Salisbury Bioenergy Plant's stage of development and geographic separation from HyP SA (which is located in the Tonsley Innovation District in southern

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23 See Australian Energy Market Commission, *SA Distribution Gas Network* [accessed 7 September 2026].

24 See *Epic Energy, MAPS Operational Information* [accessed 2 September 2026].

25 AGN, *Response to the AER request for information - Ring Fencing Exemption Application – Hydrogen Park South Australia and Hydrogen Park Gladstone*, 4 September 2026.

26 See ASX Announcement, *Delorean Corporation, Operational License Issued to Delorean's SA1 Salisbury Bioenergy Project, 20 October 2026* [accessed 19 November 2026]

27 See ASX Announcement, *Delorean Corporation, SA1 Build/ Own/ Operate Bioenergy facility – Construction update, 25 May 2026* [accessed 5 October 2026].

Adelaide), we do not consider that the SA1 Salisbury Bioenergy Plant currently gives rise to competition concerns.

The absence of current competition reduces immediate competition concerns that ring-fencing obligations are designed to address and supports our view that the public benefit of compliance appears limited. However, our assessment is based on current market circumstances and may change as renewable gas markets develop further.

Participation in the Short Term Trading Market

AGN advised that in relation to HyP SA, 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." [28]

AGN submitted that its participation in the STTM and creation of certificates does not lead to any concerns in respect of HyP SA's ring-fencing exemption application.

AER position

HyP SA is required to be registered in the Adelaide Short Term Trading Market (STTM) to enable injection of hydrogen into the Tonsley distribution network.[29] To satisfy this requirement, AGN will be the STTM facility operator. As a STTM facility operator, AGN would not have the ability to offer blended gas directly into the STTM.

To do so, it requires a supply arrangement with a third-party gas shipper that is a STTM participant. The arrangement with a third party that AGN describes would support gas from the HyP SA facility being offered into the STTM. In this respect, we understand the arrangement is directly linked to HyP SA and therefore does not raise any ring-fencing issues in any adjacent markets.

Based on these circumstances and the current scale and scope of HyP SA, we consider that the arrangements for registration on the STTM do not give rise to any ring-fencing issues in adjacent markets at this time. Further, under the exemption conditions set out in section 7 of this final decision, AGN would be required to notify the AER of any material change in the nature or scale of HyP SA.

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28 AGN, *Hydrogen Park South Australia and Hydrogen Park Gladstone Exemption Application*, 13 August 2026.

29 AGN, *Response to the AER request for information - Ring Fencing Exemption Application – Hydrogen Park South Australia and Hydrogen Park Gladstone*, 4 September 2026

4.5 Consideration of the NGO

The NGO requires the AER to promote the long-term interests of consumers through efficient investment in, and operation and use of, covered gas services, including by contributing to the achievement of jurisdictional targets for reducing greenhouse gas emissions.

AER position

We consider that granting a ring-fencing exemption to HyP SA would promote the NGO by avoiding material compliance costs and operational inefficiency where the public benefit of compliance is limited. It would also support the continued operation of a renewable hydrogen project that contributes to reducing South Australia's greenhouse gas emissions,[30] while maintaining appropriate safeguards against future competition concerns through the exemption conditions.

[30] See Australian Renewable Energy Agency, *AHC – Hydrogen Park South Australia Public Knowledge Sharing Report* [accessed 2 October 2026].

5 Draft decision

On 16 October 2026, the AER published a draft decision to grant AGN exemptions from gas ring-fencing obligations in sections 139 and 140 of the NGL in relation to HyP SA and HyP Gladstone for a five-year period subject to certain conditions.[31]

Submissions to the draft decision

Stakeholders were invited to provide submissions on the draft decision by 5 pm AEDT on Friday 6 November 2026. We received one submission to the draft decision, from Deakin University's Centre for Smart Power and Energy (CSPER).

The CSPER supported proportionate exemptions where the statutory criteria are satisfied but recommended additional safeguards to ensure that the basis for the exemptions remain verifiable as the projects and renewable gas markets develop. Its recommendations included establishing a dated baseline for each project, maintaining traceable cost and internal control records, recording credible access enquiries, clarifying the information to be provided with notifications, and providing concise annual assurance to support reassessment of the exemptions.

We have considered the CSPER's submission in making our final decision. The draft decision already included conditions requiring AGN to notify the AER of material changes to the projects, formal third-party requests for connection or access, and material changes to the internal controls relied on for the exemptions. We agree that annual reporting would provide additional assurance and assist the AER to monitor whether the exemptions remain appropriate.

We notified AGN that following the consultation on the AER's draft decision we were considering making an update to our draft decision to impose an additional condition requiring AGN to prepare and submit annual separate accounts and the cost allocation methodology for HyP Gladstone and HyP SA (condition 4). We gave AGN an opportunity to respond and AGN confirmed that it had no concerns with condition 4.

[31] AER, *Draft Decision – Ring-fencing exemption determination - AGN*, 16 October 2026.

6 Final decision

Our final decision is to grant AGN exemptions from the minimum ring-fencing requirements in sections 139 and 140 of the NGL in relation to HyP Gladstone and HyP SA.

The exemptions commence on 30 November 2026, when HyP Gladstone and HyP SA's existing deemed exemptions under Part 2 of Schedule 7 to the NGR expire, and will remain in effect until 30 November 2031. The five-year period balances regulatory certainty with the ability to reconsider the exemptions as the renewable gas market develops.

We assessed AGN's exemption applications for HyP Gladstone and HyP SA, along with its responses to our requests for information, against the exemption criteria in rule 34 of the NGR. In summary, we consider that:

- Neither HyP Gladstone nor HyP SA forms a significant part of the relevant distribution pipeline system.
- For both HyP Gladstone and HyP SA, the costs of compliance with sections 139 and 140 of the NGL would outweigh the public benefit of compliance.
- AGN has 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.

Our final decision was also guided by the NGO. We consider that, in the absence of current competition, the immediate competition concerns that ring-fencing obligations are intended to address are reduced and HyP Gladstone and HyP SA contribute to the achievement of jurisdictional targets for reducing greenhouse gas emissions.

The exemptions are subject to conditions set out in section 7 of this final decision.

7 Exemption conditions

Rule 35 of the NGR requires the AER to consider, before granting an exemption under rule 34 of the NGR, whether to impose conditions on the exemption.

The AER has the power to vary the conditions of an exemption at any time (subject to undertaking the required consultation).[32] AGN must comply with any conditions imposed on the exemptions granted in respect of HyP Gladstone and HyP SA.[33]

The AER's final decision is to grant the exemptions to AGN in relation to HyP Gladstone and HyP SA subject to the following conditions:

Condition 1

AGN must inform the AER as soon as practicable, and in any case within 15 business days, of any material change in the nature or scale of HyP Gladstone or HyP SA, including, but not limited to, a material increase in hydrogen production capacity or an extension of hydrogen blending or supply beyond the Gladstone distribution network or Tonsley distribution network.

Condition 2

AGN must inform the AER as soon as practicable, and in any case within 15 business days, if a third party makes a formal request for connection or access for a hydrogen, biomethane or other renewable gas production facility to the Gladstone distribution network or the Tonsley distribution network.

Condition 3

AGN must notify the AER as soon as practicable, and in any case within 15 business days, of any material change to its internal controls relied on for HyP Gladstone or HyP SA 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.

Condition 4

AGN must provide the AER with the separate accounts for HyP Gladstone and HyP SA and the methodology used by AGN to allocate costs to HyP Gladstone and HyP SA. The accounts and methodology must be prepared on an annual basis and provided to the AER within six months of the conclusion of the annual reporting period.

When notifying the AER under the above conditions, AGN must provide details of the changes in circumstances relevant to the exemptions, including relevant documentation and information about how those changes may affect the risk of public detriment arising from the exemptions and the measures AGN proposes to implement to manage any increased risk.

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32 NGR, rule 35(3) and (4).

33 NGR, rule 35(2).

The above conditions will assist the AER to identify material changes in circumstances relevant to the exemptions and assess whether those changes affect the basis on which the exemptions were granted. These conditions are in addition to AGN's obligation to notify the AER without delay if circumstances change such that it no longer qualifies for an exemption that has been granted to it.[34] We must revoke an exemption if we are no longer satisfied that all of the criteria for an exemption in rule 34 of the NGR are met.[35]

Although the above conditions will assist the AER to identify material changes during the exemption period, a defined expiry date will provide an opportunity to reassess the projects against the exemption criteria if AGN seeks further exemptions after 30 November 2031.

These conditions supplement AGN's notification obligations under rule 34(6) of the NGR and ensure the AER is informed of relevant material changes in relation to HyP Gladstone and HyP SA.

34 NGR, rule 34(6).

35 NGR, rule 35A.

Appendix A – Rule 34 of the NGR

Exemption from minimum ring-fencing requirements

Version 95 of the NGR current as of 5 November 2026.

Requirements

1) A service provider may apply to the AER for an exemption from one or more of the requirements under section 139, 140, 141, 147 or 148 of the NGL.
2) The AER must deal with such an application in accordance with the expedited consultative procedure.

   Note:

   Under rule 35, the AER must consider whether conditions should be imposed on exemptions granted under this rule.

3) An exemption is to be granted from section 139 of the NGL if the AER 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; and
   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.
4) An exemption is to be granted from section 140 or section 141 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.
5) If compliance with a relevant requirement would, in the AER's opinion, lead to increased competition in a market, the AER must, in carrying out an assessment under subrule (3)(b) or subrule (4), disregard costs associated with losses arising from increased competition in upstream or downstream markets.
6) A service provider granted an exemption under this rule must notify the AER without delay if circumstances change such that the service provider no longer qualifies for the exemption.

   Note:

   This subrule is classified as a tier 1 civil penalty provision under the National Gas (South Australia) Regulations. See clause 6 and Schedule 3 of the National Gas (South Australia) Regulations.

Glossary

Term	Definition
AEMO	Australian Energy Market Operator
AEDT	Australian Eastern Daylight Time
AER	Australian Energy Regulator
AGN	Australian Gas Networks Limited
HyP Gladstone	Hydrogen Park Gladstone
HyP SA	Hydrogen Park South Australia
MAPS	Moomba to Adelaide Pipeline System
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules
RGGO	Renewable Gas Guarantee of Origin
STTM	Short Term Trading Market
Wasleys facility	Wasleys Renewable Natural Gas Facility