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Consultation on updated draft Annual Compliance Order

Please find below QGC Pty Limited's (**QGC**) submission in response to the explanatory note for draft decision consultation paper and the updated draft Annual Compliance Order (**ACO**) published by the AER in April 2024.

Structure of Submission

The balance of the submission follows the structure of request for feedback set out in section 1.4 of the explanatory note.

1. Feedback on changes made by the AER to the draft ACO and response template

QGC is broadly supportive of the changes to the response template, as well as the change to the ACO to allow for submission of password protected files.

2. Feedback on the AER's responses to the key issues raised in the previous round of consultation

2.1 Service provider response where an exemption is held

In its previous submission, QGC raised that it would be appreciated if the AER could provide guidance as to whether service providers who hold an exemption from an obligation are required to respond to each information request in respect of that obligation and then in Column H ("*if not, why?*") identify that it holds an exemption. Should this be the case:

- it will significantly increase the compliance burden created by the ACO. For example, a service provider could expend significant time and effort in compiling and providing the lists and statements under item 8 ("*carrying on a related business*") where it holds an exemption in respect of those obligations. To better manage the compliance burden, QGC suggests where an information request relates to an obligation for which a service provider holds an exemption, the service provider's required response is limited to identifying the applicable exemption; and
- the provision of this information by the service provider is not reasonably necessary for the performance or exercise of the AER's functions or power.

It does not appear that this part of QGC's submission has been addressed in the explanatory note as it is not captured in the summary of submissions or in the responses to key issues. For the reasons set out above, QGC considers this to be a key issue.

2.2 Item 10.5 - Financial reports

The changes made to item 10.5 are unclear. The explanatory note states "*The wording of item 10.5 has been adjusted to allow providers that are not required to produce these reports to other Government entities to provide reports as part of their responses*" and item 10.5 has been amended

by inserting “if applicable”. The intent of this statement and change is unclear. By inserting “if applicable” one reading is that if a service provider has an exemption under s141 of the NGL it is not required to respond to this item. It would be appreciated if this could be clarified.

2.3 Clause 2.2.1 of the ACO – requirement to maintain information for 7 years

Thank you for requesting additional feedback on the burden that the proposed new requirement to maintain all information used to prepare the annual response for 7 years, as opposed to 3 or 5 years, places on services providers. Storing data comes at a financial cost to gas market participants – such as the cost of cloud storage or storing physical records in archives. There is also the additional labour cost of staff setting up, maintaining and monitoring internal systems to ensure compliance with the additional data storage requirements. The benefit or value of storing the information for 7 years is not clear from the information provided by the AER to date. QGC maintains that a shorter duration could be imposed, such as 3 years. QGC respectfully suggests that the five year period within rule 101A(6) does not create a precedent because it does not apply to all gas market participants.

2.4 Clause 4 of the ACO – basis of preparation

QGC thanks the AER for confirming that further guidance about the detail that will be required for the basis of preparation will be provided in the Guidelines. Without further detail, it is unclear how the basis of preparation can be applied to each item in the response template.

2.5 Clause 5 of the ACO – assurance requirements

QGC thanks the AER for clearly setting out the legislative basis of the proposed audit requirement. QGC observes that the content of the explanatory note, in relation to the audit program, refers to “compliance”. Given that the AER already has the power to require service providers to carry out a compliance audit under s64C of the NGL, to mitigate the burden on market participants while also delivering benefit and value to the market, the AER could instead require service providers to conduct audits, as and when required, under section 64C.

Further, the draft ACO refers to the audit being conducted by external auditors. Section 64D of the NGL states that a compliance audit is to be carried out in accordance with the AER Compliance Procedures and Guidelines, which does not mandate the use of external auditors. By requiring market participants to use external auditors rather than internal audit teams, the AER is significantly increasing the cost to gas market participants of responding to the ACO. QGC notes the AER’s intent to consult on the Compliance Procedure and Guidelines later in 2024 and suggests that all information on audit requirements is better located within this document. Otherwise, there will be two documents containing two sets of information and requirements on audits which can cause inconsistency, confusion within the market and decrease efficiency.

3. Any other issues relating to the draft ACO

QGC notes the typographical error in Row 12 Column B sheet titled “checklist”.

Thank you for the opportunity to provide input into the draft ACO. We look forward to further engagement on the issues raised in this submission. Please contact Marion Carthew for matters relating to this submission.