

**PROTECTED: CABINET
SENSITIVE: LEGAL**



Australian Government

**Department of Industry, Science,
Energy and Resources**

Options for a prospective national gas reservation scheme

Department of Industry, Science, Energy and Resources

October 2021

PROTECTED CABINET

**PROTECTED: CABINET
SENSITIVE: LEGAL**

Table of Contents

Acronyms and abbreviations 3

Executive summary 4

Summary of options 6

Background 7

 The supply-demand balance in south-east Australia 7

 Gas-Fired Recovery implementation 8

 The Australian Domestic Gas Security Mechanism (ADGSM) 9

 Heads of Agreement with East Coast LNG exporters 10

 The Global Resources Strategy 11

 The Productivity Commission’s Review of Resources Sector Regulation 11

Gas reservation in Australia 12

 Western Australia 12

 Queensland 14

 Northern Territory 15

 Victoria 15

 New South Wales 16

 South Australia 16

Gas reservation in other countries: Lessons from abroad 17

 United States 18

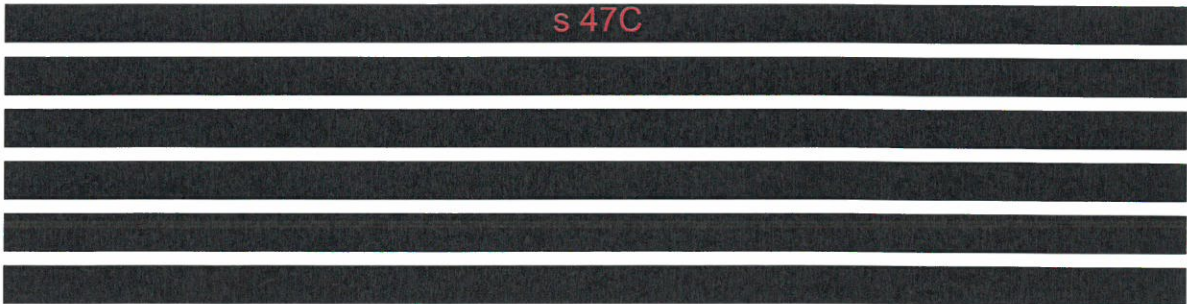
 Qatar 18

 Malaysia 19

 Indonesia 19

 Peru 19

 Israel 20



**PROTECTED: CABINET
SENSITIVE: LEGAL**

ACRONYMS AND ABBREVIATIONS

ABF	Australian Border Force
ACCC	Australian Competition and Consumer Commission
ADGSM	Australian Domestic Gas Security Mechanism
AEMO	Australian Energy Market Operator
ASL	Average Staffing Levels
APGA	Australian Pipelines and Gas Association Ltd
AMSC	Australian Market Supply Condition
APPEA	The Australian Petroleum Production and Exploration Association
BITs	Bilateral Investment Treaties
CO ₂	Carbon dioxide
The department	Department of Industry, Science, Energy and Resources
DFAT	Department of Foreign Affairs and Trade
EUAA	Energy Users Association of Australia
FID	Final investment decisions
FTAs	Free Trade Agreements
GSOO	Gas Statement of Opportunities
Interim NGIP	National Gas Infrastructure Plan NGIP: Interim Report
LNG	Liquefied Natural Gas
MYEFO	Mid-Year Economic and Fiscal Outlook
NGIP	National Gas Infrastructure Plan
NSW	New South Wales
NT	Northern Territory
PC	Productivity Commission
PACE	Plan for Accelerating Gas Exploration
PJ	Petajoule
QLD	Queensland
SA	South Australia
TJ	Terajoule
WA	Western Australia
WTO	World Trade Organization

EXECUTIVE SUMMARY

In August 2019, the Commonwealth Government announced it would implement new measures to deliver affordable, reliable gas to domestic consumers.¹ These measures included the consideration of options for a prospective national gas reservation scheme. The Prime Minister, the Hon. Scott Morrison MP's subsequent announcement of the Gas-fired Recovery on 15 September 2020 reaffirmed the Commonwealth's intention to explore options for a prospective national gas reservation scheme.²

In October and November 2020, the Department of Industry, Science, Energy and Resources (the department) sought comments on a prospective national gas reservation issues paper.³ During this time, the department conducted more than 20 targeted stakeholder consultations. Gas producers, LNG exporters, industrial gas users, industry associations, and State and Territory governments made over 40 submissions in response.

s 47C

[REDACTED]

The magnitude of the economic risks created by gas reservation depends on their design and the portion of reserved gas. Higher levels of reservation have a greater distortionary impact, putting greater downward pressure on prices and creating greater risks. s 47C

[REDACTED]

...

Collectively, the Gas-Fired Recovery measures aim to:

- get more gas into the market
- boost the gas transport network, and
- better empower gas consumers.

These aims do not align perfectly with what gas users ultimately want: lower prices. But by achieving these aims, the Gas-Fired Recovery measures may lower prices. If gas users remain unsatisfied with the progress of Gas-Fired Recovery measures or with prices, they will likely increase advocacy for further

¹ <https://www.minister.industry.gov.au/ministers/taylor/media-releases/government-acts-deliver-affordable-reliable-gas>

² <https://www.pm.gov.au/media/gas-fired-recovery>

³ https://consult.industry.gov.au/onshore-minerals/gas-options/supporting_documents/optionsforaprospectivenationalgasreservationschemeissuespaper.pdf

⁴ s 47C

**PROTECTED: CABINET
SENSITIVE: LEGAL**

government intervention in the domestic gas market, which may include the introduction of a national gas reservation scheme.

Realising the aims of the Gas-Fired Recovery will take time. First gas is expected from the Strategic Basin Plans and the States under bilateral energy and emissions deals from 2023, with volumes ramping up closer to 2030.

Other countries and Australian jurisdictions have implemented gas reservation policies. The impact of these policies on domestic gas production has varied according to their design and how often they change. Some of these policies appear to have minimal impacts, whereas others have resulted in no new investment in gas production or even domestic industries leaving the country. These policies either:

- require producers to supply gas domestically as it is produced (Western Australia (WA), Queensland (QLD), Peru, Israel), or
- reserve the right to restrict gas exports to address a forecast domestic supply shortfall (the US, Canada, Australia's Australian Domestic Gas Security Mechanism (ADGSM)).

s 47C
[Redacted text block]

⁵ www.pm.gov.au/media/gas-fired-recovery

Note: this page 6 is exempt under ss 33(a)(iii) and 47C. In addition, s 42 applies to the passages as marked.

PROTECTED: CABINET
SENSITIVE: LEGAL

SUMMARY OF OPTIONS

§ 33(a)(iii), § 47C	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]

BACKGROUND

THE SUPPLY-DEMAND BALANCE IN SOUTH-EAST AUSTRALIA

In August 2019, the Commonwealth announced it would consider options for a prospective national gas reservation scheme to deliver affordable, reliable gas. This announcement responded to forecast supply shortfalls and higher than historical gas prices in the east coast gas market. Shortfalls have not eventuated, but production in south-eastern gas fields has declined since 2017. Infrastructure constraints can limit gas flow from northern gas fields to southern demand centres. On an annualised basis, AEMO projects sufficient supply to cover demand requirements until at least 2029, if committed and anticipated projects go ahead (see Figure 1).

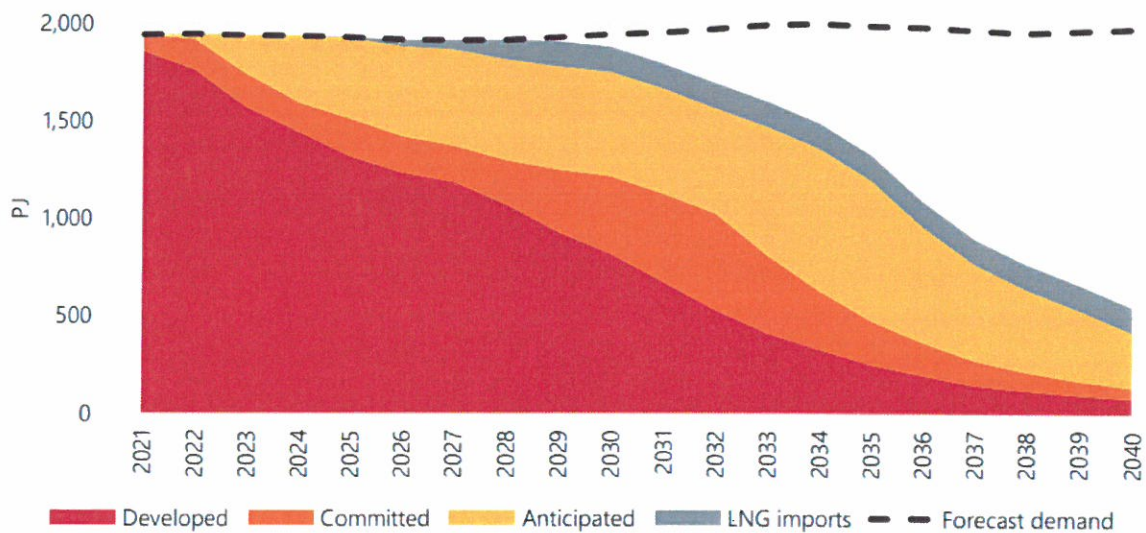


Figure 1: Projected eastern and south-eastern Australia gas production (including export liquid natural gas (LNG)), existing, committed, and anticipated developments 2021-40.⁶

The Australian Competition and Consumer Commission (ACCC) has reported a similar outlook for the eastern gas market. In July 2021, the ACCC predicted east coast gas supply and demand balance will be very tight in 2022. For the southern states, demand is forecast to be 6 PJ greater than production and withdrawals from storage in 2022. This means the southern states will rely on gas transported from QLD to avoid a shortfall next year. Similarly, the National Gas Infrastructure Plan (NGIP): Interim Report (Interim NGIP), released on 7 May 2021, found supplies of gas in the south would fall short of residential, commercial and industrial demand by 2024 if targeted action is not taken.

Market forces tend to, and are intended to, resolve forecast shortfalls.

s 45, s 47C

Nonetheless, the tight supply-demand balance projected this decade makes gas users in Australia's south-east vulnerable to shocks and compounding events like those that led to the spot market price spike in early July 2021 (see Figure 2). Gas-Fired Recovery measures are intended to address this vulnerability, among other policy goals.

⁶<https://aemo.com.au/en/energy-systems/gas/gas-forecasting-and-planning/gas-statement-of-opportunities-gsoo>

⁷ s 45, s 47C

**PROTECTED: CABINET
SENSITIVE: LEGAL**

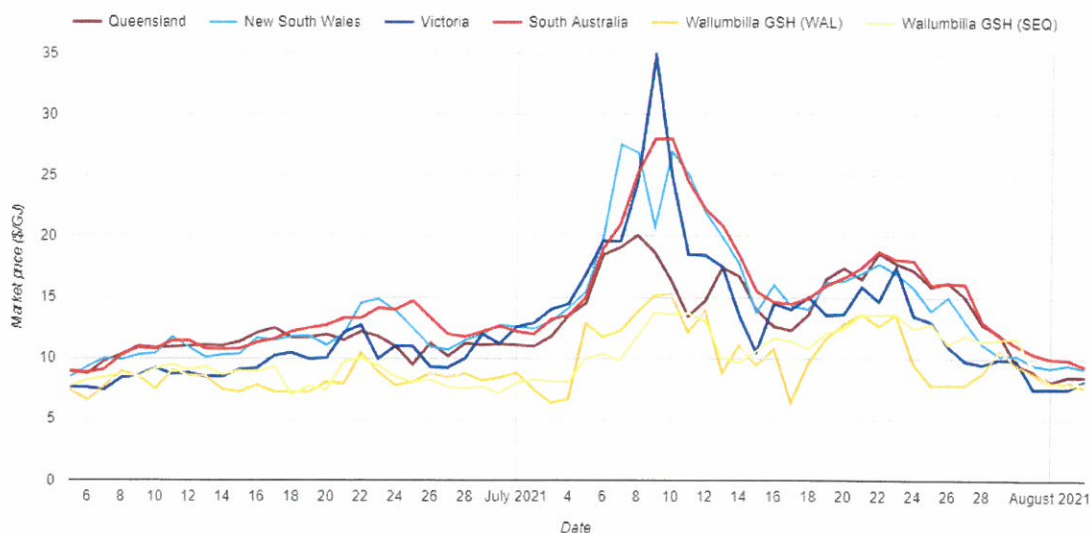


Figure 2: A confluence of unforeseen industrial incidents, pipeline capacity constraints and high gas demand caused by cold, calm and cloudy weather caused a price spike in spot markets in July 2021. Price spikes can indicate heightened supply interruption risk and are more likely when the supply-demand balance is tight.

GAS-FIRED RECOVERY IMPLEMENTATION

A well-designed prospective national gas reservation scheme accounts for interactions with Gas-Fired Recovery measures, as well as the domestic gas supply outlook. A year after the Gas-Fired Recovery's announcement, Gas-Fired Recovery measures are at various stages of implementation. Those most relevant to gas supply, and thus gas reservation, are listed below.

- In January 2021, east coast LNG exporters signed on to the new Heads of Agreement. The new Heads of Agreement commits them to offer uncontracted gas to the domestic market on competitive terms before the export market.⁸
- New South Wales (NSW) and South Australia (SA) committed to new gas supply targets in bilateral energy and emissions reduction agreements (see details below).
 - The NSW Government agreed to inject an additional 70 PJ of gas per year into the NSW market by 2022.⁹
 - The SA Government agreed to supply an extra 50 PJ of gas per year into the east coast market by 2023 and 80 PJ of gas per year by 2030.¹⁰
 - Negotiations are ongoing with the NT, WA, Victorian and QLD Governments.
- Two Strategic Basin Plans have been released. First gas is expected from the agreements as early as 2023, with volumes ramping up closer to 2030.
 - The Beetaloo Strategic Basin Plan was released in January 2021.
 - The North Bowen Galilee Strategic Basin Plan was released in September 2021.

⁸ <https://www.industry.gov.au/regulations-and-standards/securing-australian-domestic-gas-supply>

⁹ <https://www.energy.gov.au/government-priorities/Energy-and-emissions-reduction>

¹⁰ <https://www.energy.gov.au/government-priorities/Energy-and-emissions-reduction>

- s 47C
- Gas producers and users are negotiating a voluntary industry-led code of conduct. Gas users may seek to include gas pricing clauses in the code of conduct.
- The Interim NGIP was released on 7 May 2021. The Interim NGIP focuses on short term supply issues in the east coast gas market. The 2021 NGIP will take a longer term view of infrastructure development (out to 2041).

Once implemented, Gas-Fired Recovery measures will take time to achieve their objectives, including bringing on more gas supply. The impacts of Gas-Fired Recovery measures should be evident by 2030, coinciding with AEMO's current shortfall forecast (see Figure 1).

There are risks Gas-Fired Recovery measures will not achieve their objectives. For example, delays to developing Narrabri gas and LNG import terminals may mean NSW does not deliver on its gas supply target. The approval of the Narrabri gas project has been challenged in the NSW Land and Environment Court. The timing of final investment decisions (FID) on the two LNG import terminals identified as priority projects remain uncertain. Squadron Energy is aiming for the Port Kembla LNG import terminal to be operational by 2023.¹¹ The NSW Government has given the gas-fired power station associated with the import terminal status as Critical State Significant Infrastructure in an attempt to accelerate a decision on the project.¹² The Commonwealth has awarded \$30m to the station's early works before its FID.¹³

THE AUSTRALIAN DOMESTIC GAS SECURITY MECHANISM (ADGSM)

Australia has had an LNG export control mechanism, the ADGSM, since 2017. The ADGSM is arguably a form of emergency gas reservation policy. The Minister for Resources can trigger the ADGSM by determining a shortfall market exists. In doing so, the Minister must consider all relevant and available information, exercising judgement as to its credibility and integrity. This information includes advice from AEMO, the ACCC, industry and other government sources. If the Minister triggers the ADGSM, LNG exporters determined to be in net-deficit to the market in shortfall can be required to supply gas domestically.

In 2019, a review found the ADGSM has been working effectively to safeguard domestic gas supplies and recommended retaining it until its scheduled repeal on 1 January 2023.¹⁴ The fact that the ADGSM has never been triggered is testament to its effectiveness at securing domestic gas supply. It continues to be a measure of last resort for the Commonwealth to intervene in domestic gas markets to prevent an imminent shortfall. The ADGSM incentivises LNG exporters to:

- monitor the domestic supply-demand balance; and
- sell gas to domestic users when the supply-demand balance is tight.

¹¹ <https://www.energynewsbulletin.net/development/news/1416628/port-kembla-power-station-declared-critical>

¹² <https://www.planning.nsw.gov.au/News/2021/Proposed-Port-Kembla-power-station-declared-critical>

¹³ <https://www.minister.industry.gov.au/ministers/taylor/media-releases/advancing-gas-fired-recovery-and-affordable-reliable-power>

¹⁴ <https://www.industry.gov.au/data-and-publications/australian-domestic-gas-security-mechanism-review-2019>

**PROTECTED: CABINET
SENSITIVE: LEGAL**

Some are more critical of the ADGSM. Professor Andrew Garnett from the University of Queensland's Centre for Natural Gas has argued the ADGSM is inconsistent with the policy aim of maximising supply and minimising prices.¹⁵

s 33(a)(iii), s 42

HEADS OF AGREEMENT WITH EAST COAST LNG EXPORTERS

The Commonwealth signed Heads of Agreement with the East Coast LNG exporters in 2017, 2018 and 2020. The East Coast LNG exporters signed the current agreement in 2020, committing them to the following.

1. Uncontracted gas (spot cargoes) will not be offered to the international market unless equivalent volumes of gas have first been offered with reasonable notice on competitive market terms to the Australian domestic gas market.
2. The signatories note that LNG netback prices based on Asian LNG spot prices play a role in influencing domestic gas prices in the East Coast gas market (as referenced by the ACCC LNG netback price series). Individual prices offered to domestic gas users will be internationally competitive and have regard to the producer's cost of supply and factors that may be relevant to users' individual circumstances, including the terms and conditions of their gas supply agreement and any applicable transportation or retailer charges.
 - a. Spot prices offered to the domestic market will have regard to the spot price LNG exporters could reasonably expect to receive for uncontracted gas in overseas markets.
 - b. Term prices offered to the domestic market will have regard to forward term prices LNG exporters could reasonably expect to receive for uncontracted gas in overseas markets.
3. The LNG exporters, as part of the East Coast gas industry, will continue to engage with AEMO on the gas supply balance and provide information to aid in forecasting supply needs for gas powered generation. This will include supporting efforts to make gas available to meet peak demand periods in the National Electricity Market through the Gas Supply Guarantee recognising that this may include industrial, commercial and residential demand.

¹⁵ https://www.pc.gov.au/__data/assets/pdf_file/0006/247191/sub024-resources.pdf

**PROTECTED: CABINET
SENSITIVE: LEGAL**

4. The LNG exporters' compliance with these commitments will be conveyed to the Australian Government through regular reporting to the ACCC on sales, offers to sell and bids declined, the terms and conditions attached to these transactions and the notice given to the domestic gas market in respect of any offers made. It will also include the price expectations and assumptions for international spot and term markets for the relevant supply period.

In July 2021, the ACCC noted the new Heads of Agreement may prove vital in avoiding potential shortfalls in 2022.¹⁶ The report found that although the ACCC has yet to receive sufficient information to determine compliance with the previous Heads of Agreement, users have reported suppliers are now more flexible and willing to negotiate on non-price terms and conditions, like volume splitting and delivery scheduling. The Heads of Agreement is thus an important market-based and industry-led solution to safeguard against any potential domestic gas supply shortages.

s 33(a)(iii), s 42

THE GLOBAL RESOURCES STRATEGY

On 7 May 2021, the Commonwealth announced \$20.1 million over two years to deliver a Global Resources Strategy which:

- identifies new markets for our resources commodities, and
- facilitates opportunities for expanding trade with these markets.

s 47C

The Global Resources Strategy intends to leverage Australia's existing FTAs and other trading arrangements to achieve its goals.

s 42, s 47C

THE PRODUCTIVITY COMMISSION'S REVIEW OF RESOURCES SECTOR REGULATION

In 2020, the Productivity Commission (PC) examined how resources regulation is designed, administered and enforced in Australia. The PC identified the ADGSM, QLD's Australian Market Supply Condition (AMSC) and WA's domestic gas policy as Australian examples of gas reservation. The PC argued gas

¹⁶ <https://www.accc.gov.au/publications/serial-publications/gas-inquiry-2017-2025/gas-inquiry-july-2021-interim-report>

**PROTECTED: CABINET
SENSITIVE: LEGAL**

reservation acts as a tax on gas production, paid as a subsidy to domestic gas users. The lower gas prices achieved by such a subsidy appear to benefit domestic gas consumers. But gas reservation lowers returns on gas exploration and development, suppressing investment. In the medium to long term, this limits gas supply, which hurts consumers. The PC concluded domestic gas reservation policies that remove the link between domestic and export gas prices lead to higher gas prices in the long run and impose net costs on the community.

Some of the international case studies in this paper illustrate the PC's argument in practice. **s 33(a)(iii)**

GAS RESERVATION IN AUSTRALIA

Australia arguably has a national emergency gas reservation policy in the ADGSM. Australia's major gas producing and LNG exporting states, WA and QLD, have domestic reservation policies. The NT is the only Australian jurisdiction with an LNG export terminal but no domestic gas reservation policy.

s 47B(a) and (b), s 47C

NSW and Victoria have domestic prioritisation policies **s 47B(a) and (b), s 47C**

Tasmania does not produce gas.¹⁷ The

Australian Capital Territory has no known gas reserves.

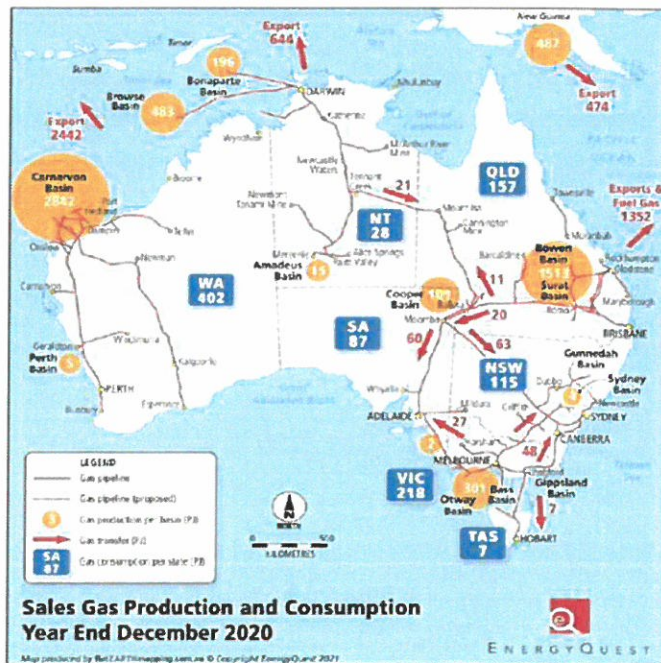


Figure 3: WA and QLD are Australia's gas production giants. Both have domestic reservation policies.

Western Australia

The WA Government has had some form of domestic gas reservation since 1979. Formalised in 2006, WA's Domestic Gas Policy requires LNG projects to make the equivalent of 15 per cent of LNG exports

¹⁷ Tasmania has no onshore gas production. There is some production in Commonwealth waters offshore of Tasmania. This gas comes onshore in Victoria and is regulated by the Commonwealth.

**PROTECTED: CABINET
SENSITIVE: LEGAL**

available to WA consumers as a condition of project approval.¹⁸ This policy has contributed to surplus domestic gas supply forecasts in WA, with prices on par with US Henry Hub prices (see Figure 4).¹⁹

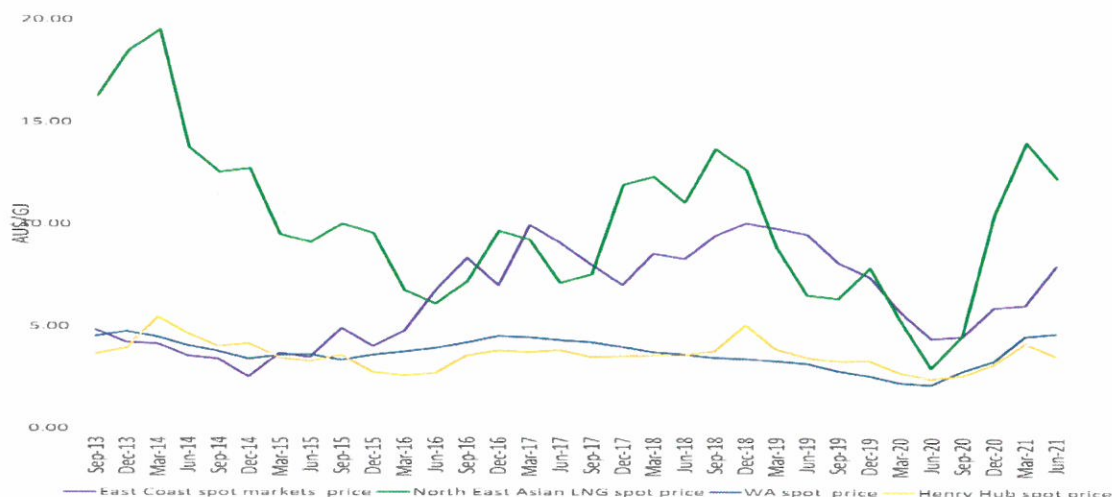


Figure 4: Domestic WA, east coast and international gas average quarterly spot prices, 2013-2020²⁰

The domestic gas reservation policy is given effect through long-term contractual agreements between developers of LNG export projects and the WA Government.²¹ In the agreements, the WA Government commits to providing a range of supporting infrastructure and services in return for domestic gas supply. These services include approving ports, building bridges and roads and social services such as schools and hospitals to support the communities servicing LNG projects.²²

WA’s Domestic Gas Policy now applies to onshore gas projects. In 2020, the WA Government announced it will not agree to the export (including to eastern states) of gas via the existing WA pipeline network other than in exceptional circumstances.²³ This means 100 per cent of gas produced onshore in WA is reserved for WA users. However, the Waitsia Joint Venture gas project was given an in-principle exemption to the domestic reservation policy.²⁴ The exemption allows Waitsia to export gas, but requires it to supply 15 per cent of gas production to WA users.²⁵ A second exemption has been granted to Black Mountain Resources. Negotiations are underway determining export limits for the Valhalla project.

¹⁸ <https://www.wa.gov.au/government/publications/wa-domestic-gas-policy>

¹⁹ AEMO’s base scenario forecasts WA’s potential domestic gas supply to exceed demand until 2028. <https://aemo.com.au/en/energy-systems/gas/gas-forecasting-and-planning/wa-gas-statement-of-opportunities-wa-g500>

²⁰ The east coast spot market price is the unweighted average of the Brisbane STTM, Sydney STTM, Victorian DWGM, Adelaide STTM, and Wallumbilla Hub markets. Energy Edge, Gas Market Analysis Tool. www.energyedge.com.au/Products/GasMarketAnalysisTool.aspx. Gas Trading Australia Pty Ltd Spot Market data, <http://www.gastrading.com.au/spot-market/historical-prices-and-volume>; Bloomberg (2020); Argus (2020).

²¹ <https://www.wa.gov.au/government/publications/wa-domestic-gas-policy>

²² [https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_1507.pdf/\\$FILE/North%20West%20Gas%20Development%20\(Woodside\)%20Agreement%20Act%201979%20-%20%5B01-a0-08%5D.pdf?OpenElement](https://www.legislation.wa.gov.au/legislation/prod/filestore.nsf/FileURL/mrdoc_1507.pdf/$FILE/North%20West%20Gas%20Development%20(Woodside)%20Agreement%20Act%201979%20-%20%5B01-a0-08%5D.pdf?OpenElement)

²³ <https://www.wa.gov.au/government/publications/wa-domestic-gas-policy>

²⁴ <https://www.mediastatements.wa.gov.au/Pages/McGowan/2020/08/Revised-policy-to-secure-domestic-gas-supply-and-create-jobs.aspx>

²⁵ https://www.wa.gov.au/sites/default/files/2021-01/Domestic-Gas-Commitment-for-the-Waitsia-Gas-Project_0.pdf

**PROTECTED: CABINET
SENSITIVE: LEGAL**

While economic theory supports the negative impacts of gas domestic reservation on investment and supply, WA's experience shows supply expansion is possible with domestic reservation policies. Supply growth or contraction depends on the fundamental economics underpinning possible projects (production costs and returns). The economics are sensitive to international demand and prices. WA's policy has come to be accepted by the state's LNG exporters because their projects' financial margins have allowed them to absorb the costs associated with the policy to date.

Although beneficial to WA's gas users, the broader economic impact of WA's policy is negative. A 2019 peer-reviewed study found the policy has no net economic benefits.²⁶ WA's gas-fired electricity, aluminium and chemicals industries are sensitive to price, and benefit from cheaper gas. But the WA and Australian economies lose overall. Annually, the study estimated the overall net loss to the economy at \$600 million and to Australian households at \$300 million.

“ ...an expansion in domestic gas using industries does not necessarily imply an increase in overall employment or capital income for Australians in the long run. The labour and capital diverted to [domestic] gas-using industries could otherwise have been employed in industries where no subsidy is necessary; that is, in industries where those primary factors have a higher value.

Neill et al.

Queensland

In 2017, the QLD Government introduced the AMSC on certain new tenements, requiring any gas developed to be sold and used only in Australia.²⁷ The AMSC is prospective. Gas developers choose to participate, avoiding any perceptions of sovereign risk. The QLD Government decides on which tenements to apply the AMSC based on the gas supply outlook.

In 2019, a QLD Government commissioned review of the AMSC found it is generally accepted by the gas industry and has not hindered investment while domestic gas prices have been similar to LNG netback prices.²⁸

...it is strongly recommended that a scheme such as that employed in Queensland is enacted. That is, a scheme which is genuinely prospective and known before title ownership, does not change any rights relating to title, and therefore does not act to discourage investment.

Senex Energy²⁹ (CONFIDENTIAL)

²⁶ Neill et al. (2019), *Western Australia's Domestic Gas Reservation Policy: Modelling the Economic Impact with a Computable General Equilibrium Approach*, Economic Record, Vol. 95, No. 308, March, 2019, pp90–113.

²⁷ <https://www.dnrme.qld.gov.au/mining-resources/initiatives/review-of-domestic-gas-pilot-program>

²⁸ https://www.resources.qld.gov.au/__data/assets/pdf_file/0004/1486309/review-australian-market-supply-condition.pdf

²⁹ Senex Energy has four blocks subject to the AMSC, including the Atlas project. These blocks could supply up to nine per cent of QLD's gas demand and currently supply gas to regional energy generators and domestic manufacturers.

**PROTECTED: CABINET
SENSITIVE: LEGAL**

Industry support for the AMSC was evident in submissions to the issues paper, the PC's 2020 Resources Regulation Study Report and in the department's ongoing contact with gas users and producers (see for example MS21-001360).

“ *The alternative concept [to the ADGSM] in Queensland of tenement release for domestic supply only, has the big advantage of being clear 'up front', which improves the investment environment from the perspective of predictability, though, if it impacts price significantly, it is not likely to improve the economic attractiveness.*

*Centre for Natural Gas, University of Queensland*³⁰

A key difference between the AMSC and WA's Domestic Gas Policy, in addition to the tenement-specific application, is to whom the reserved gas is available. WA's policy reserves gas for WA users, except where the project is exempt; QLD reserves gas for Australian users, particularly manufacturers.

Northern Territory

The NT is the only Australian LNG-exporting jurisdiction that does not have some form of domestic gas reservation. The NT market is not in shortfall, gas supply in the NT outstrips gas demand. There is no indication the Territory is considering domestic gas reservation.

The NT aspires to be a world-class gas production, manufacturing and services hub,³¹ but is at the nascent stages of establishing an oil and gas regulatory framework. Through implementation of the Beetaloo Strategic Basin Plan and negotiations on a bilateral energy and emission reduction agreement, the Commonwealth is encouraging the Territory to ensure the Territory's policy settings enable timely exploration and development of gas resources.

Victoria

Victoria does not have a domestic gas reservation policy. Similar to the Heads of Agreement though, section 152A of Victoria's *Offshore Petroleum and Greenhouse Gas Storage Act 2010* requires new gas to be offered on reasonable terms to Australian users first. Victoria refers to this as Domestic Gas Prioritisation. The Victorian Gas Program's Progress Report, No. 5 December 2020, argues Domestic Gas Prioritisation is sufficient to ensure Victoria's energy security by commercial means because the closest LNG export terminal is in Gladstone.³²

“ *...the most likely customers for Victorian gas are those closer to the supply source, because the only avenue for gas export in the east-coast gas market is through Gladstone in Queensland. This was a function of market dynamics.*³³

Further, the Report also argues the Australian Constitution prevents Victoria from implementing a state-based domestic gas reservations scheme.

³⁰ Submission 24 to the Productivity Commission's *Resources Sector Regulation Study Report* (2020), available: https://www.pc.gov.au/__data/assets/pdf_file/0006/247191/sub024-resources.pdf

³¹ <https://cmc.nt.gov.au/advancing-industry/northern-territory-gas-strategy>

³² https://earthresources.vic.gov.au/__data/assets/pdf_file/0020/613091/VGP_PR05-161926-Low-res.pdf

³³ Ibid.

**PROTECTED: CABINET
SENSITIVE: LEGAL**

*... implementing a true gas reservation strategy, similar to that in Western Australia, would be extremely challenging for Victoria. This is because Victoria is part of an interconnected east coast gas market and the Australian Constitution prevents any impediment to trade between the states and territories.*³⁴

Victoria lifted bans on onshore conventional gas exploration and development in July 2021 and is currently consulting on regulations to re-open the onshore conventional gas industry.³⁵

New South Wales

NSW does not have a domestic gas reservation policy, but does have a soft version of domestic gas prioritisation. Action 15 of NSW's Gas Plan is "Gas companies will be asked to demonstrate how projects that develop NSW gas reserves will benefit NSW gas consumers".³⁶ Only projects verified through this process are eligible to receive 'Strategic Energy Project' status, which fast-tracks approvals.³⁷

Prioritisation aside, it is likely new NSW gas will go to domestic users. On 21 July 2021, the NSW Government released a statement outlining its plan for the state's gas industry.³⁸ The statement effectively limits future gas exploration and development in NSW to a single project – Santos' Narrabri Gas Project. Santos has committed to supplying 100 per cent of Narrabri gas to the domestic market.³⁹

South Australia

SA does not have or support a gas reservation policy. The Hon Dan van Holst Pellekaan MP, SA Minister for Energy and Mining wrote to the Commonwealth stating:

*...to date a gas reservation policy has not been supported by the SA Government. It continues to be the state government's view that greater supply will lead to better pricing and availability of gas for energy retailers and large gas users.*⁴⁰

The SA Government encourages the development of petroleum resources by having a supportive regulatory regime and favourable royalty regime.

SA's programs do not perfectly align with the views set out in Mr van Holt Pellekaan's letter. The Plan for Accelerating Exploration Gas (PACE) grant program required SA gas users to have the first right to agree commercial terms to contract gas from supported projects.⁴¹ PACE increased SA gas production and prioritised it to SA users.

³⁴ Ibid.

³⁵ <https://engage.vic.gov.au/regulatory-impact-statement-draft-petroleum-regulations>.

³⁶ https://resourcesandgeoscience.nsw.gov.au/__data/assets/pdf_file/0005/534830/NSW-Gas-Plan.pdf

³⁷ https://resourcesandgeoscience.nsw.gov.au/__data/assets/pdf_file/0006/534831/NSW-Gas-Plan-Common-Questions-and-Answers.pdf

³⁸ <https://www.nsw.gov.au/regional-nsw/future-of-gas-statement>

³⁹ <https://www.santos.com/news/nsw-government-future-of-gas-statement/>

⁴⁰ Letter from Minister Pellekaan, 20 November 2020 (MC20-063265 refers).

⁴¹ <https://www.petroleum.sa.gov.au/industry-activity/pace-gas-grants>

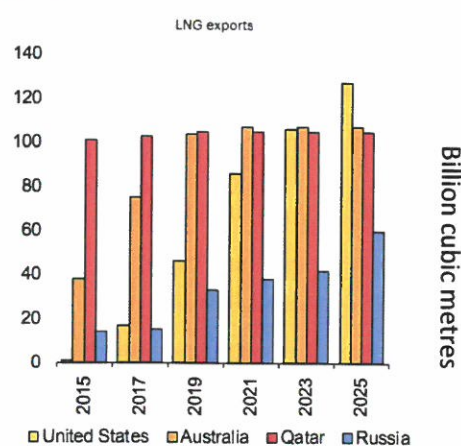
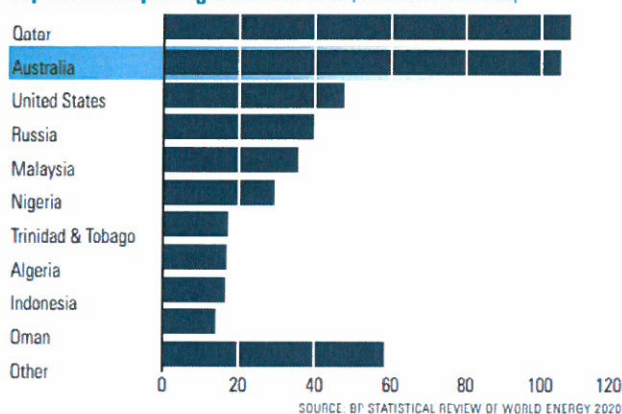
GAS RESERVATION IN OTHER COUNTRIES: LESSONS FROM ABROAD

Internationally, major LNG exporting countries have export restriction policies or are centrally managed economies. Australia's ADGM is a type of export restriction policy. Policies requiring a portion of production to be sold to domestic users, like WA or QLD's policies, are uncommon among top tier gas exporting countries. Where the reserved production portion is high or policy changes frequently, there is evidence of a dampening effect on a country's gas production. This dampening effect includes suppressed investment in gas production and even offshored existing gas industries.

This section presents international case studies of domestic gas policies. The first case studies are of the other major LNG exporters, Qatar and the US. Malaysia and Indonesia are then included as the largest LNG exporters in our region with two different approaches: price control in Malaysia and production-linked reservation in Indonesia.

s 33(a)(iii)

Top 10 LNG exporting countries 2019 (billion cubic metres)



SOURCE: IEA GAS 2020

Figures 5 and 6: The US, Australia and Qatar dominate global LNG trade. In our region, Malaysia and Indonesia are the other major LNG exporters.

Some gas users use the presence of international domestic gas reservation schemes to support government intervention in Australia's gas market.

“ Virtually all major LNG producing nations have some form of domestic gas policy or export control aimed at ensuring local industry and consumers are not disadvantaged by gas exports. Although schemes introduced by governments across the world vary, the common goal is to ensure the national advantage of affordable gas is not given away through linking to a global LNG price.

Energy Users Association of Australia (EUAA)

The Australian Petroleum Production and Exploration Association (APPEA) went further in its submission, analysing the impacts of domestic gas market interventions in other countries, rather than their mere presence or absence. According to an international study APPEA commissioned, domestic gas market interventions like price-setting or reservation tend to suppress investment in exploration and production.⁴²

s 33(a)(iii)

⁴² https://www.appea.com.au/wp-content/uploads/2020/11/EnergyQuest-APPEA-Report_2020.pdf

s 33(a)(iii)

The study examined the gas market policies of 20 major gas-producing countries, accounting for more than 70 per cent of the world's gas production.

United States

The US requires export approvals for gas to countries with which it does not have an FTA.⁴³ In approving a proposed gas export, the US considers the domestic need for the gas and whether the export promotes competition by allowing commercial parties to freely negotiate their own trade.⁴⁴

Large volumes of gas exports are approved. As of August 2020, the US had issued 43 long-term non-FTA authorisations to export domestically produced gas. These authorisations originally had a 20 year term, but last year were extended to 31 December 2050, and a total volume of nearly 20,000 PJ per year.⁴⁵ In its submission, APPEA claimed the US has never denied a gas export application.

“ Of the five developed OECD countries reviewed, none have made material use of government interventions in their gas markets. The US and Canadian export controls have not been used in practice to restrict gas exports.

APPEA

s 33(a)(iii)

Qatar

Qatar's gas demand is met by local production without formal gas reservation policies.⁴⁶ However, all gas assets, including those associated with LNG export, are state-controlled. As recognised by the EUAA, this sidesteps the need for formal policy or regulatory frameworks to ensure domestic supply.

Our biggest LNG rival Qatar, does not have formal gas reservation policies. However, all gas assets, including those associated with LNG export are state controlled, therefore allowing the government to manage domestic and export priorities.

EUAA

In 2013, Qatar consumed 1,163 billion cubic feet of natural gas, or 20 per cent of production.⁴⁷ This ratio is expected to decrease as Qatar's gas production and exports increase over coming years.⁴⁸

⁴³ The US has FTAs with 20 countries. Only 2 of these are among its top 5 LNG export destinations (since 2014 by volume). <https://ustr.gov/trade-agreements/free-trade-agreements>

⁴⁴ <https://www.govinfo.gov/content/pkg/FR-2019-03-26/html/2019-05732.htm>

⁴⁵ The authorised volume is 16.7 Tcf, and includes existing authorizations involving US natural gas produced in the lower 48 states and liquefied in Canada and Mexico for export to non-FTA countries.

<https://www.federalregister.gov/documents/2020/08/25/2020-16836/extending-natural-gas-export-authorizations-to-non-free-trade-agreement-countries-through-the-year#footnote-15-p52239>

⁴⁶ <https://www.iea.org/countries/qatar>

⁴⁷ https://www.eia.gov/international/content/analysis/countries_long/Qatar/qatar.pdf

⁴⁸ Ibid.

Malaysia

Like Australia, Malaysia has two unconnected gas consuming and producing regions, Borneo and Peninsular Malaysia. Also like Australia, Malaysia is a major LNG Exporter (see Figure 5). Peninsular Malaysia imports offshore gas and LNG, then exports it to Singapore. Borneo gas is exported under long term LNG supply agreements.⁴⁹

Instead of having a domestic gas reservation policy, Malaysia regulated domestic gas prices. Price controls created large domestic demand in Peninsular Malaysia, supporting industrial growth and energy generation as the country developed. s 33(a)(iii)

Indonesia

Indonesia reserves gas for domestic use as part of project approvals, applying reservations of up to 40 per cent of production in recent years. Since the mid-2000s, the Indonesian Government has attempted to limit gas exports to ensure domestic supplies and has encouraged fuel-switching to gas.

s 33(a)(iii)

Peru

According to APPEA, Peru is the only LNG exporter with domestic gas reservation.⁵⁴ s 33(a)(iii)

The Peruvian Government developed the Camisea gas field for domestic use in the 1990s. In 2010, Peru allowed the export of gas reserves by a privately developed LNG project. In response to public pressure, the Peruvian Government introduced a domestic gas reservation policy that capped exports at 40 per cent of reserves.

The policy was initially very successful. Peru's gas production and exports grew rapidly from 2010, resulting in the export of an estimated one third of Peru's gas reserves.⁵⁶ s 33(a)(iii)

⁴⁹ <https://www.oxfordenergy.org/wpcms/wp-content/uploads/2020/08/The-dilemma-of-gas-importing-and-exporting-countries-NG-161.pdf>

⁵⁰ Ibid.

⁵¹ s 33(a)(iii)

⁵² s 33(a)(iii)

⁵³ s 33(a)(iii)

⁵⁴ https://www.appea.com.au/all_news/gas-market-interventions-can-risk-investment-and-supply/

⁵⁵ s 33(a)(iii)

⁵⁶ https://cri-world.com/publications/qed_dp_227.pdf

s 33(a)(iii)

[Redacted]

Israel

Israel is not a major gas exporter, in part because of its severe domestic gas reservation policies. Frequent policy changes have also resulted in a reputation for high sovereign risk. The characteristics of Israeli gas policy have reduced investment and delayed, or perhaps prevented, new gas production.

Between 2011 and 2013, two events threatened Israeli gas supply.⁵⁷ First, in 2011 continued attacks on Egyptian pipelines suspended gas supply via Israel's main gas supply route. Second, the only developed Israeli gas field was depleted at the beginning of 2012. As a result, the Israeli Government sought to accelerate new domestic supply

s 33(a)(iii)

[Redacted]

[Redacted]

- | [Redacted]
- | [Redacted]
- | [Redacted]
- | [Redacted]
- | [Redacted]
- | [Redacted]
- | [Redacted]

[Redacted]

⁵⁷ s 33(a)(iii)

[Redacted]

s 33(a)(iii)

Conclusion

The supply-demand balance in the south-east gas market is tight. The ADGSM and Heads of Agreement have been effective in preventing shortfall, but tight markets are vulnerable to shocks and compounding events. Prices are the first response to a shock or compound event, followed by supply interruptions.

s 47C

⁵⁹ Ibid.

⁶⁰ <https://www.timesofisrael.com/israel-reportedly-set-to-ease-export-quotas-of-natural-gas/>

s 47C
[Redacted]

[Redacted]

s 45 [Redacted] ”

[Redacted]

” [Redacted]

[Redacted]

[Redacted]
s 42 [Redacted]

s 47C

[REDACTED]

[REDACTED]

[REDACTED]

“

[REDACTED]

[REDACTED]

[REDACTED]

s 42

s 47C [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- s 42 [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

“

[REDACTED]

s 47C
s 45

”
s 45

[Redacted]

s 42

[Redacted]

[Redacted]

[Redacted]

”
[Redacted]

[REDACTED] s 47C ”
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] s 45
[REDACTED]
[REDACTED]

[REDACTED] s 45, s 47C

- | [REDACTED]
- | [REDACTED]
[REDACTED]
- | [REDACTED]
[REDACTED]
- | [REDACTED]

[REDACTED] s 33(a)(iii), s 42
[REDACTED]
[REDACTED]

[REDACTED] s 47C
[REDACTED]
[REDACTED]

[REDACTED] s 33(a)(iii), s 42
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] s 47C
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] s 33(a)(iii), 42

[REDACTED] s 47C

[REDACTED]

[REDACTED]

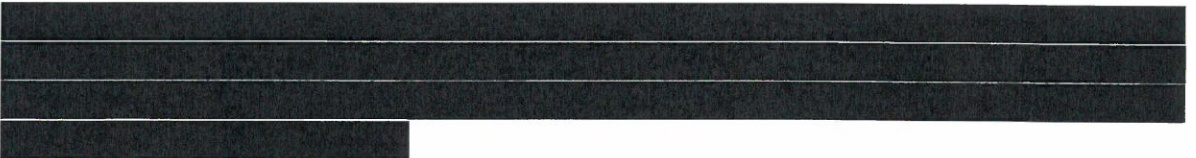
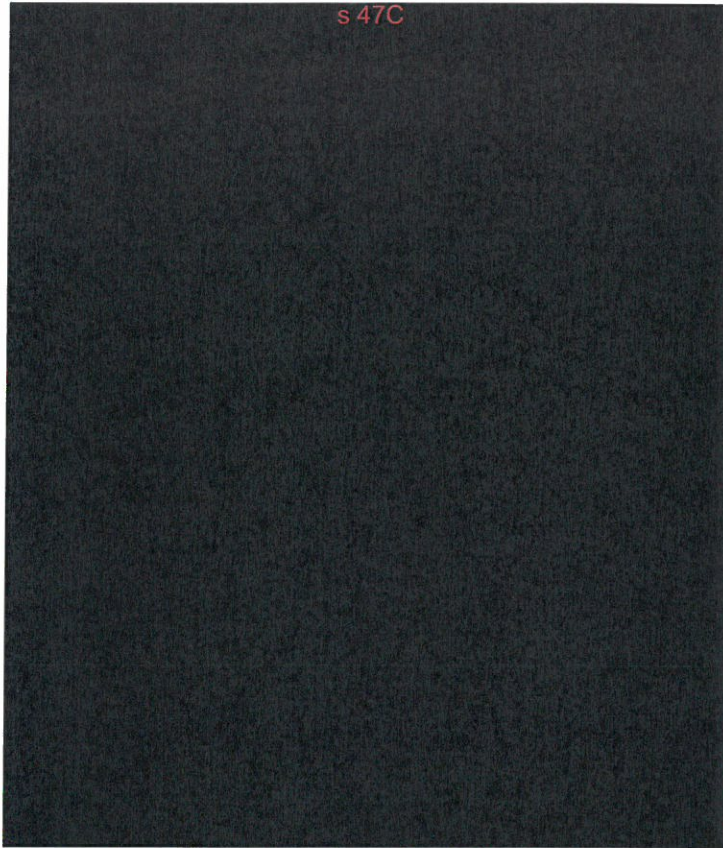
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

s 47C



s 47C

A large rectangular area of the page is completely redacted with black ink, covering approximately four lines of text.

s 42

A large rectangular area of the page is completely redacted with black ink, covering approximately eight lines of text.

s 47C

[Redacted]

[Redacted]

[Redacted]

s 42

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

s 47C

[REDACTED]

[REDACTED]

[REDACTED]

s 42

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

s 47C [Redacted]

[Redacted]

[Redacted]

[Redacted]
s 42
[Redacted]

[Redacted]

[Redacted]

[Redacted]

“ [Redacted]

[Redacted]

s 47C
[Redacted]

”
[Redacted]

” [Redacted]

”
[Redacted]

[Redacted]

” [Redacted]

”
[Redacted]

s 45
[Redacted]

[Redacted]

s47C s 45
[Redacted text block]

”

” [Redacted text block]
s 45

[Redacted text block]

[Redacted text block]

”

[Redacted text block]

s 42
[Redacted text block]

s 47B)

47B
[Redacted text block]

“ 47C s 47B
[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

PROTECTED: CABINET
SENSITIVE: LEGAL

s 47C, 47B

[REDACTED]

47B

[REDACTED]

[REDACTED]

[REDACTED]

s 47C [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- s 42 [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

“ [REDACTED]

[REDACTED] ”

[REDACTED]

[REDACTED] s 47C
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] s 42
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]