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Australian Bill Would Limit LNG Exports - What It Means for Foreign Investors

I. Synopsis

On 14 October 2026, the Australian Federal Government introduced the Domestic Gas Reservation Bill 2026 (the Bill) into Parliament, requiring LNG exporters to supply up to 20% of their export volumes to the domestic market. Security of energy supply has become a growing concern worldwide, as conflicts in the Persian Gulf and between Russia and Ukraine have constrained gas and LNG supply. Several countries have restricted, or debated restricting, energy exports to protect their domestic markets, including the United States.

The Bill passed the House of Representatives on 29 October 2026 and now goes to the Senate, where a Senate Committee is due to report on 11 November. So far, there appears to be little resistance from the Coalition opposition, giving the Bill a realistic path to becoming law, possibly with amendments.

The object of the Bill is "*to deliver energy security and lower natural gas prices*" and "*to provide an effective and predictable regulatory framework for exporters of liquefied natural gas*". Whilst laudable on its face, the Bill represents market intervention on a large scale. It aims to oversupply the domestic market and lower prices, which may erode producer returns and deter new investment. Beyond that, the Bill could directly affect gas exporters' contractual commitments with third parties, potentially leading to investment claims against the Federal Government.

Australia's LNG export industry is largely foreign-owned. According to a 2022 Australia Institute study, seven of its ten LNG export projects are at least 90% foreign-owned, with foreign interests holding 95.7% of the industry's export capacity.[1] Aware of the possible impacts on foreign investors, the Government has consulted relevant stakeholders and sought to reassure trading partners that existing contracts will be respected. Notwithstanding that engagement and subsequent amendments to the regime, the measures may still affect the rights of foreign investors in Australian LNG projects.

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1 The Australia Institute, *Foreign investment in Australia: Australian big business is not Australian at all* (Discussion Paper, June 2022) p 34. Figures are based on project ownership and shareholder data as at March 2022. They include foreign shareholdings in Australian-listed project participants, as well as direct project stakes held by foreign companies.

Where that is the case, aggrieved investors may look to the protections available under Australia's international investment agreements. Treaties likely to be relevant include those providing for investor-state dispute settlement, such as the CPTPP, the China–Australia FTA and BIT, and the Korea–Australia FTA, among others. The availability of a claim will turn on the investor's nationality and corporate structure and much will depend on the final form of the legislation and how the Minister and the Regulator exercise their discretions in practice.

Below we explore the background to the Bill, key provisions and likely impact on foreign investors.

II. The Background

Australia is one of the world's largest LNG exporters, owing largely to a wave of major projects developed over the past 15 years with substantial foreign investment. One recent analysis puts total investment across 13 operating and planned export projects at about USD 243 billion, of which Japanese companies account for roughly USD 53 billion.[2] Much of that investment was underpinned by long-term offtake contracts with Asian buyers, several of whom also took equity stakes in the projects.

In recent years, there have been calls for greater domestic use of gas from those projects. Until now, the main federal tool has been the Australian Domestic Gas Security Mechanism (ADGSM), which allows export controls to be imposed in a shortfall but has never created an ongoing supply obligation.

The trigger for the Bill was the Gas Market Review report released on 22 December 2025, which recommended a domestic gas reservation scheme. The Government announced on 7 May 2026 that it would legislate the scheme, and released a Draft Design Framework on 25 May 2026. The exposure draft followed in September as a package of three Bills: the main Bill, a Levy Bill funding the AER's administration of the scheme, and a Consequential Amendments Bill repealing the ADGSM.

The Bill departs from the exposure draft released in September in several respects. First, adjustments to the "domestic supply obligation" (DSO) for existing contracts have been narrowed. A qualifying contract must have been in force on 22 December 2025, and any renewal or extension after that date is excluded, even where the right to renew or extend already existed in the contract. Second, the adjustment process has been clarified. Exporters must now apply for an adjustment separately from their licence application, and the Bill sets out more clearly how long an adjustment applies and which decisions are open to merits review. Third, the test for an adjustment based on existing contracts has been amended. The requirement that the exporter be actively taking steps to improve its ability to make DSO supplies has been removed.

III. The Proposed Reforms

The Bill introduces a new regime of export licensing for LNG. From 1 January 2028, an "exporter" of LNG must hold an export licence which is granted by the Minister for Resources, with the agreement of the Energy Minister, after consulting the Industry

[2] InfluenceMap, *Corporate Japan's Role in Promoting Australian Fossil Fuels* (Briefing, February 2026), available at https://influencemap.org/briefing/LNG-briefing-34341.

Minister and considering the Australian Energy Regulator's (AER) advice. The licence must be granted for a period of between 20 and 50 years which can be renewed but cannot be transferred. Licences are granted on the basis that they may be cancelled or varied by later legislation, with no compensation payable.

The central obligation of each licence holder is the DSO. Each year, the licence holder must supply gas into each domestic gas market from which it exports LNG, subject to the following conditions:

1. **The quantity:** the licence holder must supply gas equal to 20% of the quantity of LNG it exports from that market in the year. The quantity may be reduced where:

    a. the Minister determines a lower percentage for a whole market, anywhere from 0% to below 20%;

    b. the AER determines a lower quantity, by reference to forecast domestic demand and forecast supply from non-licence holders (demand calibrated quantity); or

    c. the Minister determines an "*adjustment quantity*" for an individual licence holder, which has the effect of reducing the overall quantity subject to the DSO.

    The quantity can be increased where the licence holder acquires domestic gas that is not "*additional gas*" and uses it to produce exported LNG, or carries a "*debt quantity*" from an earlier year.

2. **What counts as supply:** gas supplied under new contracts must be the licence holder's "*own gas*" (gas in which the holder or any related body corporate has held an interest at all times since production) or "*additional gas*". It must be supplied to a domestic buyer, whether by the licence holder or another company on its behalf. Those contracts must also require that the gas be consumed in that market and not as feedgas (fuel for LNG or production facilities). That condition must flow down to any further supply. Gas a domestic buyer declines to take under a take-or-pay contract, and net sales into domestic short-term markets, are deemed to be supply.

3. **Adjustments:** the Minister may reduce an individual licence holder's quantity: (a) because of pre-existing contractual commitments entered into on or before 22 December 2025; (b) due to infrastructure constraints; or (c) where a licence holder is subject to pre-existing reservation arrangements, such as Western Australia's Domestic Gas Policy (which requires 15% of production to be reserved over the life of a project), provided the Minister is satisfied that domestic supply conditions make this appropriate.

4. **Flexibility:** a licence holder complies if it supplies at least 90% of its quantity in a year and meets certain requirements for the balance. That balance (the "deferred quantity") must be made up within the following three years. Any supply above the licence holder's minimum quantity in a later year (a "credit quantity") is automatically applied to clear the oldest deferred quantity first.

Any amount not offset becomes a "debt quantity" added to the following year's obligation.

5. **Penalties**: there are various penalties for breaching the regime. For example, a company that exports without a licence or fails to meet its DSO faces a maximum civil penalty of the greatest of 50,000 penalty units, three times the benefit derived and detriment avoided, or 10% of annual turnover (capped at 2.5 million penalty units). Executive officers may be personally liable where they knew of, or were reckless as to, the contravention and failed to take all reasonable steps to prevent it. Schemes designed to avoid the obligations are separately prohibited.

IV. Who Will Be Affected?

There is a great deal of uncertainty surrounding the Bill, including the operation of key provisions such as the level at which the DSO applies (whether by project, or by joint venture participant) and adjustments to the DSO (discussed further below). The Bill is still at an early stage and may be amended by the Senate. Nevertheless, its intended reach is broad. It applies to "Australian territory", including offshore areas, to all "exporters" of LNG, defined as "*the person who holds legal title to the liquefied natural gas immediately before the time the liquefied natural gas is loaded onto a vessel for export*".

Less clear is how the regime applies to joint ventures. The Bill provides that only "*a foreign corporation or a trading or financial corporation*" may apply for a licence, and does not expressly address whether an unincorporated joint venture can hold one in its own right. Where partners lift and sell their own equity share of LNG, it is likely that each will require its own licence.

V. Potential Impact On Foreign Investors

Whilst there remain various uncertainties with the Bill, it is clear that the regime materially curtails the commercial flexibility exporters have historically enjoyed. Going forward, exporters will need to be far more strategic in their cargo programming and contracting, with less room to respond to market opportunities as they arise.

Some potential impacts include:

1. **Existing contracts**: the Bill envisages a high threshold for any adjustment to the DSO (which may be varied or revoked in certain circumstances). The following conditions must be met:

    a. the exporter would likely breach a term of its existing contract if the DSO is not adjusted; and

    b. the exporter is unable to reasonably produce or acquire natural gas, or arrange for another company to supply gas on its behalf, for the purpose of making DSO supplies.

    An exporter may first be obliged to reasonably produce or acquire natural gas, either by purchasing replacement LNG cargoes to meet its third-party contractual commitments or domestic volumes to meet

the DSO. Key terms are also left undefined, including what is "*reasonable*" and when an exporter "*would be likely to breach*" its contract.

Provisions in existing contracts may also be relevant. Updates to the Bill now require the Minister, in deciding whether an exporter would be likely to breach its existing contract, to take into account an exporter's ability to fulfil an existing contract using LNG from its own gas or sourced from international markets, which may make adjustments harder to obtain for exporters with global portfolios. Contractual flexibilities such as downward quantity tolerances or cargo deferral rights may allow an exporter to meet the DSO without breaching its export contract. Similarly, change in law provisions within contracts may excuse breaches of delivery obligations, such that there may be no "*likely breach*" as a basis for an adjustment.

2. **What counts as an existing contract?** Only existing contracts for supply "*by way of export*", that is, from the relevant domestic market, can support an adjustment thereby lowering the DSO. It is unclear how contracts without a sourcing obligation will be treated. Even if historically supplied with Australian LNG, such contracts could be treated as capable of being supplied from the exporter's wider portfolio and may not therefore be considered to support any reduction in the DSO.

3. **Logistical considerations**: in the more immediate term, energy companies will need to assess how to plan future deliveries, balance domestic and export commitments, and structure their contracts. This will be difficult, given that the 20% obligation is only a ceiling and the actual obligation is set six months before each year begins.

These considerations are particularly acute because any request for a DSO adjustment must be made by way of a separate application, lodged with the AER (and accompanied by any prescribed fee) before 31 December 2027, and the determination must also be made by that date. Given the various consultation and approval steps involved, exporters will need to finalise their position, and lodge their applications, well before that date. The determination will specify the regulated periods to which the adjustment applies and the quantity for each, although it may later be varied or revoked if it was based on false or misleading information or circumstances materially change.

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If you have any questions about the issues addressed in this memorandum, or if you would like a copy of any of the materials mentioned in it, please do not hesitate to reach out to:



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