



16 September 2025

NEM Review  
Expert Panel  
C/o –  
Department of Climate Change, Energy, the Environment and Water

Submitted via email: [nemreview@dcceew.gov.au](mailto:nemreview@dcceew.gov.au)

Dear Panel

**Re: Stanwell response to the National Electricity Market Wholesale Market Settings Review  
Draft Report and Draft Recommendations Consultation**

**Medium-Term: Enhance liquidity in the short-to medium-term derivatives market**

Stanwell Corporation Limited (Stanwell) welcomes the opportunity to respond to the Expert Panel's consultation on the National Electricity Market Wholesale Market Settings (NEM Review).

Stanwell is Queensland's leading provider of electricity and energy solutions to the National Electricity Market (NEM), and large energy users along the eastern seaboard of Australia. With over 40 years of continuous operations, Stanwell's experience in working with communities to build, operate and maintain reliable energy generation assets is also being applied to the rollout of renewable energy.

Stanwell is developing a pipeline of renewable energy and storage projects throughout Queensland, whilst maintaining a reliable supply of baseload power from two of the most efficient and reliable coal-fired power stations in Australia – the Tarong power stations near Kingaroy and Stanwell Power Station near Rockhampton.

This response contains the views of Stanwell only and should not be construed as indicative or representative of the views or policy of the Queensland Government.

Stanwell remains appreciative of the scale of the task undertaken by the NEM Review Panel; however, as we delve deeper into the Recommendations for the medium to longer-term, we are concerned the rapid and compressed timeframe will not allow stakeholders to give due and reasonable consideration to the proposals provided in the Draft Report. This is especially notable given the enormity of the impact these proposed changes (if implemented) will have on the energy market and its customers.

While the market is doing its best to accommodate the consultation and delivery timeframes, we have observed the Panels' thinking is rapidly evolving since the release of the Draft Report on 6 August 2025.

Although the additional consultations and various NEM Review Working Groups appear to be progressing the Draft Report's design concepts, the timeframe for responses to the Draft Report are no longer in sync with the ideas forming in the Working Groups. All of which seems to indicate the majority of stakeholders are unlikely to be responding to the most current information.

We are also concerned that stakeholders will not be given the opportunity to respond to a Final Report and Recommendations before they are provided to Energy Ministers in December 2025. Again, given the significant changes currently being proposed, it seems unreasonable to preclude stakeholders from both

accessing, and then responding to, the Final Report and Final Recommendations prior to providing them to Energy Ministers i.e. the final decision makers.

We also suggest the scope of the Review Panel be extended so they can continue to lead the further consultation, design, and implementation work that will be needed once the Final Report and Recommendations are submitted to Energy Ministers in December.

## Introduction

Stanwell supports increased liquidity in the energy market; however, we remain of the view that this, and previous attempts to bring contracts into the *National Electricity Law* (NEL) <sup>1</sup> and the *National Electricity Rules* (NER) <sup>2</sup> create problematic regulatory and governance arrangements.

Before we can support the Market Making Obligations (MMO) proposals made under Recommendations 6A, and 6B, much of the design details will need to be worked through. For example, elements of the MMO design such as those that will reflect the evolving nature of the derivatives market and the obligations placed on market makers etc. can only be finalised once the standard derivative products have been developed i.e. bulk energy, shaping and firming.

We also hold a number of concerns around the disproportionate allocation of MMO obligations, risks allocation, including the proposal that Governments apportion market risk to corporate entities, and participation thresholds, noting that having one or two participants carry the MM obligation is unlikely to provide the Panel's envisaged outcomes, and places a significant burden on the market maker(s).

The proposal to extend MT PASA from three to five years will do nothing to improve the accuracy or the availability of market information, and will ultimately not support hedging over a longer time horizon.

## Recommendation 6A

*"Establish an always-on market making obligation (MMO) to support liquidity through the transition and improve market transparency and access for smaller retailers."* <sup>3</sup>

### Market Making Obligation

We support measures that deepen forward liquidity and improve price discovery, but an "always-on" market making obligation must be proportionate and risk-aware.

### Regulatory and oversight requirements

- The proposed Energy Services Entry Mechanism (ESEM) and the Market Making Obligation (MMO) appear to substantially increase the volume and materiality of cross-over obligations with other instruments and regulators.
- The MMO must not create legal conflict or inconsistency and must be explicitly secondary i.e. it must not prevail over other relevant existing laws and regulations, including competition law, and Australian financial services licence obligations. This requirement should be included in the NEL.
  - Exemptions from MMO participation should be available in circumstances where compliance with an MMO would breach an entity's other regulatory and legislative obligations. This may include for example, a Projects Assessment of System Adequacy update or the Australian Securities Exchange (ASX) announcement which cause a market maker to be in a trading halt.

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<sup>1</sup> The *National Electricity Law* set out in the schedule to the *National Electricity (South Australia) Act 1996* (SA).

<sup>2</sup> The *National Electricity Rules* see for example version 235, 4 September 2025.

<sup>3</sup> Nelson, T, et al, "*National Electricity Market wholesale market settings review*", Draft Report, August 2025, p 20.

- Exemptions would operate within specific parameters, including be circumstances-based, or be for a specific number of days (e.g. the Australian Securities Exchange (ASX) offers 10-day exemptions). It may be beneficial for exemptions to be submitted with brief, specific, and verifiable reasons to a regulatory body, however publication of such reasons may need to be considered in light of whether the cause itself is market sensitive.
- Neither the NEL nor the NER are the appropriate vehicles to enshrine the entirety of the MMO framework. The impact of which would likely see unnecessary duplication of regulatory requirements and oversight, costly implementation, and a negative impact on productivity for little or no benefit to either the market or consumers.
- We instead suggest an initial “light touch” NEL and NER update accompanied by a MMO guideline with the flexibility to also accommodate market structure and jurisdictional liquidity targets. The guideline could be reviewed at five years of implementation (i.e. once the market has operational experience of the MMO), at which time the workable elements to include, or not include in a legislative framework could be determined.
- While the Draft Report recognises the current role the Australian Energy Regulator (AER) plays in defining contracts under the Market Liquidity Obligation (MLO), we do not believe it should simply be assumed that the AER is the appropriate body to manage and regulate significantly expanded financial obligations.
- Given the experience to date with the Capacity Investment Scheme, Stanwell believes there is a material likelihood that the ESEM warehouse will become the dominant investment vehicle in the NEM and the dominant holder of hedges. In which case the warehouse must be required to market make if a mandatory scheme is introduced.

### ***Application of the MMO to participants***

Currently, voluntary market making has not provided many benefits to market participations. For this reason, it is not continuously done by most market participants. It is unclear why an “always on” MMO would be more beneficial as claimed in the Draft Report.

- If an “always on” market making scheme is introduced, Stanwell considers that there should be two or three market makers on each side of the market per region. The Draft Report refers to “participants above a pre-defined size” but appears to implicitly adopt the MLO design of obligating generators. Unlike the Retailer Reliability Obligation (RRO) and the MLO, the MMO does not require one side of the market to hedge to a minimum volume, in which case market makers should come from both sides of the market.
- In determining generation-side obligated entities, contracts sold to the ESEM warehouse should be taken into consideration so that entities are not forced to “sell twice”.
- Stanwell supports the inclusion of commercial market makers, including participants acting on behalf of an obligated market maker. That is, if a commercial entity is willing to provide the service cheaper than an otherwise-obligated participant believes they can, this should be enabled.
- Where both commercial and obligated market makers exist, obligated market makers in that region should not have to contribute to the market making levy as they are already providing more service than other participants.
  - Alternatively, market makers could be obligated to bid into the commercial auction, however in the event cheaper suppliers are found, these suppliers would then take on the MM obligation in place of the original market maker. All market makers would be paid as bid regardless of whether they were originally obligated, and all non-market makers would pay for this service.

- Obligated parties should not be required to make markets for services they do not naturally offer. For example, it would be unreasonable for an operator who provides predominantly bulk energy to be required to offer firming services or vice versa.
- Elements of the MMO design such as those that will reflect the evolving nature of the derivatives market and the obligations placed on market makers etc. can only be finalised once the standard derivative products have been developed.

### ***Risk management***

- Risk appetite and risk management must not be imposed by legislation, but must remain the remit of the participant's Board (or relevant equivalent). A corporate entity must be free to choose whether to accept more or less risk and not be forced (legislatively or otherwise) to take on a risk that a government would not otherwise accept
- The MMO should be voluntary and incentive based to ensure market participants are not forced to take on a risk position they would not otherwise take, or that would place them at odds with their risk management mandates.
- Having one or two participants carry the MM obligation is unlikely to provide the Panel's envisaged outcomes, and places a significant burden on the market maker(s). Instead, the MMO should be spread across a larger number of smaller participants to accommodate the increased number of participants anticipated to, (or hoped will), enter the market in the coming years.
- All MM obligations should be approved or fall within the clearing guidelines to encourage market participants to fully market make. For example, currently some clearers limit changes during the last 120 seconds of the day which may prevent a market maker responding to new information during that window. Market makers should be free to move with the market for the duration of the liquidity window.
- The MMO threshold does not lend itself to simple market share calculations. Therefore, care should be taken when setting thresholds, as it is likely the traditional model i.e. where asset owners control those assets, will change as market participants change. Market making thresholds should be reviewed every two years as part of the process in recommendation 6B.

### ***MMO structure***

- Bid-ask spreads should be flexible to adapt as market conditions, contract types, and underlying technologies evolve. As the MMO appears to be "a stronger version" of the MLO, volumes and spreads should initially be based on MLO arrangements. Session volume caps are essential to ensure MMO entities are not forced to be caught in a market event. Cumulative volumes are likely to be necessary to ensure participants are not forced to oversell or overbuy rational risk positions. This will help to ensure that a natural seller, e.g. a generator, is not forced to lift their offer only to offer MMO volumes or vice versa.
- While the MLO applies between T-3 and T-1, the MMO could also apply from T-1 to the start of physical delivery. To date, this is where most contracting already occurs, and this is likely to reflect customer preferences.
  - Stanwell recommends not allowing the MMO to continue into the physical delivery period as doing so would oblige market makers to withhold some volume from market for the start of physical delivery.
  - It may also be more difficult to market make OTC products during physical delivery.
- Before we could support whether the MM obligation should be extended from three years to five, we would like to see how the ESEM would work operationally, and gauge whether the derivative

contracts in the ESEM would match what the market will need. However, it would be possible for the ESEM warehouse to market make in the three to five year tenors initially as a way to gauge appetite.

- For exchange-based market making, Stanwell supports the retention of 1MW minimum order size as decreased lot sizes of <1MW will likely incur higher transaction costs (see response to 6B).
- For OTC market making Stanwell also supports 1MW minimum order size. The ESEM warehouse could provide credit intermediation, or convert a whole megawatt parcel into smaller parcels (below 1 MW) if needed to facilitate settlement completion, and support greater market access.
- Market making must accommodate genuine buyers and sellers. Stanwell supports the prevention of final offer “take it or leave it” market making orders (i.e. where market makers offer a contract into the market under an MMO without a genuine intention to sell). We believe this prevention will support a competitive market and access for smaller participants.
- Trading windows could be widened from those in the MLO to avoid concentrating the risk into a small timeframe.

### ***Retailer Reliability Obligation and Market Liquidity Obligation***

- The MMO should not overlap the MLO. If an MLO exists it should either be replaced by the MMO, or the MMO should be delayed until the MLO is completed. Our preference is to have the RRO rescinded as early as possible.

### **Recommendation 6B**

*“Institute a new co-design process – the Australian Energy Regulator (AER) should work with industry to define a cores set of exchange-traded derivative products suitable for an increasingly weather dependent system, with these products to apply to the MMO.”<sup>3</sup>*

### ***Derivative contract co-design should be industry-led***

Stanwell supports the premise that any new financial contracts should be a co-design process with relevant parties involved. However, we note the following:

- Participants have the greatest incentive to ensure the standard products selected are fit for purpose and allow parties to reduce risk.
- The model proposed in the Draft Report has the AER deciding which products will be considered standard and then regulating the use of those products through the MMO. While it is appropriate that a regulator is present during the co-design, this closed-loop model is unlikely to foster confidence in investors.
- We understand that the Australian Energy Council (AEC) and the Australian Financial Markets Association (AFMA) have expressed through their consultation workshops, that a co-design framework will need to be established and should allow industry to lead the development of the ESEM and MMO contracts “...with regulators only intervening if the industry is unable to make a decision, or there is a compelling public interest to deviate from the industry’s proposed approach.” We concur.
- The market will naturally evolve via the OTC market first, and it adapts quickly. While the Draft Report recommends that the standards products be able to trade on an exchange, there is a risk that this is interpreted as needing to be listed on the exchange before they can be considered “standard”. This should not be the case. As previously observed, the ASX has historically taken a significant amount of time to list new products (i.e. five years to adopt new peak products) – noting that this is in part due to regulatory requirements.

### ***Standardised fungible contracts may not match the proposed bulk energy, shaping, and firming***

- For the standard financial products to achieve the desired outcome they need to be fully fungible. This means that asset-linked structures including PPAs and revenue swaps must be excluded and may make a “bulk energy” product equally as firm as a “firming” product.
- We understand, the possibility of including such products and having the ESEM warehouse “reshape” them into standard products to sell into the medium-term contract market has been considered.<sup>4</sup> Stanwell considers this is a material and inadvisable divergence from the Draft Report which uses standard products to underpin both the ESEM and MMO.
  - Some element of reshaping appear inevitable and will be addressed in Stanwell’s response to Recommendation 8, however any reshaping should be as limited as possible.
- In the short-term Stanwell expect most of the “heavy lifting” to be performed by a combination of flat and time-of-day swaps and caps as they provide fixed-volume “building blocks” to mitigate most of a participant’s exposure.
  - Splitting the day into defined time of day is the most ideal option, giving traders, generators and customers fungible products to trade.
  - Fixed profile products (e.g. solar shape) have been trialed and may emerge as liquid products, however these tend to vary by region and month, making them somewhat less appealing than simple blocks.
  - Caps can be offered in the same fixed volume time-of-day format to provide firming and/or shaping. While \$300 caps are currently industry standard, alternative strike prices may lend themselves more to firming or shaping and should be considered.
  - Floors may assist in providing a shaping product, however, there has been next-to-no trade in these products to date.
- A centralised platform will support liquidity but does not need to be an ASX-style exchange (where the exchange is principle to the trades).
  - FEX has previously been approved as an MLO exchange and TOD Markets is currently applying to become one. Stanwell expects the same could apply to an MMO exchange.
  - The draft report includes consideration of the ESEM warehouse acting as principle and absorbing some credit risk which may increase access to hedging for small participants, but only for OTC products.
  - Platform-based OTC pricing can provide equivalent transparency to exchange-based pricing.

### ***Stanwell does not support the proposed reduction in contract size for exchange contracts***

- OTC contracts can be traded in volume, so this Recommendation appears to apply only to exchange-listed contracts.
- Currently an exchange trade incurs exchange fee of \$29.50/lot, a clearing fee of \$5/lot and brokerage \$5-63/lot depending on the channel used. If the lot size is decreased from 1 MW for 100 kw either:
  - The per lot fees do not change and transaction costs increase 10-fold; or

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<sup>4</sup> As discussed by the NEM Review Panel in a Clean Energy Council industry briefing on 11 September 2025.

- The per lot fees decrease but not fully proportionally, reflecting some fixed cost elements (e.g. deal entry/reporting overhead) and transaction costs increase; or
- The per lot fees decrease proportionally and transaction costs neither increase nor decrease.
- We consider a partial increase to be most likely and reflects a participant's internal cost structure (i.e. recording a trade cost that will be the same whether it's 100 kw or 100 MW).
- If smaller contract sizes are considered desirable by policymakers Stanwell recommends they be delivered via OTC contracts and especially the ESEM warehouse.

## **Recommendation 6C**

*“During the second half of 2025, the Panel will work with stakeholders to explore approaches to improve the accessibility of derivative markets, with a focus on NEM prudential requirements, financial market margining requirements, and the interaction between the two. This will allow for recommendations to be made in the final report to improve market access.”*

While the Draft Report effectively defers this topic, Stanwell notes that this topic has been considered a number of times, including a Rule change request as far back as 2008. Each review has found that each of AEMO's Prudential requirements, exchange margin requirements, and OTC credit requirements serve an important role in maintaining financial integrity, but address sufficiently different issues such that they cannot meaningfully be netted.

We encourage the Panel to ensure that any new investigations are proportionate to the potential benefits.

## **Recommendation 7**

*“Improve the availability of market information necessary to support hedging over a longer time horizon, including by improving the medium-term projects assessment of system adequacy (MT PASA) process to extend the generator information provided.”<sup>3</sup>*

### **Availability of market information through MT PASA**

We consider Recommendation 7 to be one area where cost to implement is likely to exceed value created. The Draft report appears to base this Recommendation on two issues:

1. An assumption that the current lack of liquidity in years four and five are due to the absence of MT PASA projections; and
2. That the Panel “has observed shortcomings in data provided by market participants.” within the current 3-year period.

In relation to the first:

- There is no indication that the increase in MT PASA publication from two to three years in 2020 has increased liquidity in year three. This is due to AEMO publishing 10-year ahead seasonal capacity forecasts both before and after the 2020 Rule change, meaning that the market was (i.e. before the 202 Rule change), and is now (i.e. after the 2020 Rule change), informed of likely capacity changes beyond the MT PASA period.
- Retailers preferring to hedge once they know a customer will sign up, and consumers preferring to commit to signing up closer to when they intend to consume the energy, has also contributed.

In relation to the second:

- To the extent that this data is inaccurate, this can be addressed within current Rules. The proposal to extend MT PASA from three to five years will not enhance or improve accuracy.

We believe the proposed extension will not provide benefits but instead increase system and compliance costs.

However, we believe there are improvements that could be made to MT PASA and AEMO's 10-year ahead seasonal outlook which we consider are ultimately the greatest "gap" relating to MT PASA.

- Firstly, new entrants should be represented and assigned a DUID by AEMO well before they are close to commissioning. For example, of the nineteen projects underwritten in December 2024 as part of Round 1 of the CIS, as at September 2025, only two have been assigned DUIDs. This effectively excludes these projects from MT PASA despite the requirement for these projects to be online within the existing MT PASA window in line with their tender obligations. Importantly, this will capture projects within the current MT PASA timeframe but is irrelevant to extending the MT PASA timeframe.
- Similarly, while adjusting some of AEMO's processes to allow the assignment of DUIDs earlier for ESEM-supported projects (and adjusting the ESEM to require it) is likely to increase transparency, but again, is irrelevant to extending MT PASA to five years.

### ***Extension to notice of closure***

The draft report also indicates that the extension of MT PASA would extend the notice of closure obligations. It is not clear why this is assumed to be the case, or whether such an extension would actually be beneficial, noting that:

- The notice of closure obligation is currently 42 months – unaligned with the 36-month MT PASA window.
- Changes to closure dates (within 42 months) require regulatory approval *before* being included in market data, while MT PASA submissions are required to represent a participant's current intention or best estimate.
- It is not clear whether the requirement to provide a static date for closure has in fact been useful. The Victorian state government entered into a private arrangement to ensure Yallourn operated until a date well beyond 42 months ahead. Conversely the New South Wales state government entered into a private arrangement to extend the operational life of Eraring beyond its nominated closure date. In both cases it appears the driver was to ensure the coal-fired plant remained in service until some unnamed pre-condition was met, rather than to achieve closure on a specific static date.

### **Conclusion**

It is unclear whether an imposed, always on, mandatory MMO will ultimately increase liquidity in the financial market.

However, if this is the proposal the Review Panel will recommend to Energy Ministers, significant work on the MMO design detail including risk assignment, structure, application, and legislative and oversight requirements will be needed to assure the market that this obligation will provide the intended benefits outlined in the proposal.

We do not believe the proposal to improve the availability of market information through MT PASA will support hedging over a longer-term horizon or extend notice of closure dates as this proposal does not align either time windows, and misses the mark in terms of understanding the purposes of the MT PASA.

We reiterate our concerns regarding the compressed consultation timeframe and again ask that the scope of the Panel be extended to allow the Panel to continue to lead the further consultation, design and



implementation work after the Final Report and Recommendations have been submitted to Energy Ministers in December.

Our submission provides suggestions we believe will address our concerns around the Recommendations proposed in the short to medium-term derivatives market, and it is hoped the Review Panel will seriously consider their implementation in their Final Report and Recommendations to Energy Ministers.

Stanwell welcomes the opportunity to further discuss any of the issues raised in this submission with the NEM Review Panel. Please direct any enquiries to Lya McTaggart via email at [lya.mctaggart@stanwell.com](mailto:lya.mctaggart@stanwell.com)



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