APA

Australia's energy infrastructure partner

ERA Draft Gas Compulsory Notice Guideline

APA Submission

August 2026



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APA Group
APA Group Limited
ACN 091 344 704
Level 10,121 Castlereagh Street Sydney NSW 2000
PO Box R41, Royal Exchange NSW 1225

P:+61 2 9693 0000
F:+61 2 9693 0093
apa.com.au

Tyson Self
Economic Regulation Authority
Level 4, Albert Facey House
469 Wellington Street
Perth WA 6000

Lodged online

31 August 2026

RE: APA Submission to the Draft Gas Compulsory Notice Guideline

Thank you for the opportunity to comment on the *Draft Compulsory Notice Guideline (Draft Guideline)* published on 20 July 2026. We appreciate the opportunity to provide feedback to ensure the Guideline is clear, practical and fit for purpose in assisting stakeholders to understand and respond to compulsory notices.

APA is an ASX listed owner, operator, and developer of energy infrastructure assets across Australia. Through a diverse portfolio of assets, we provide energy to customers in every state and territory on mainland Australia consistent with our purpose to strengthen communities through responsible energy solutions. As well as an extensive network of natural gas pipelines, we own or have interests in gas storage and generation facilities, electricity transmission lines, and renewable generation in Western Australia.

APA recognises the need for effective regulatory monitoring and enforcement. However, compulsory information requests and oral examinations should be clear, proportionate and tailored to the information or evidence sought.

Improvements to the Compulsory Notice procedure would improve predictability, simplify compliance and support the proportionate exercise of powers under the Economic Regulation Authority (**ERA**). Our submission below provides recommendations for how the Draft Guideline can be improved, supporting efficient operations for industry while ensuring the ERA has the information it needs for effective monitoring and compliance.

As a threshold question, we would ask the ERA to consider whether it is necessary to use its compulsory information gathering powers. APA acknowledges the ERA's reporting obligations and would be pleased to provide the necessary information in support of those obligations. APA's assistance in this regard is voluntary and collaborative and would not require the use of the compulsory information gathering powers.

Standardised administrative procedures and timeframes

APA is concerned that the further use of short-notice compulsory requests could create unnecessary administrative burden and operational complexity. This is particularly the case where requests without format guidance involve substantial document production, multiple business custodians, or coordination across different teams. This may increase the risk that a recipient is unable to meet the required deadline, despite taking reasonable steps to comply.

Recommendation: The guideline should establish standardised protocol and procedure that align with the nature, volume and complexity of the information sought.

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- **Minimum notice periods** should establish indicative minimum timeframes, allow staged or prioritised production for large notices, and include an express proportionality standard.
- **Format guidance** on electronic production, including preferred formats, secure file transfer, search methodology and early discussion of production issues.

Consultation before issuing a compulsory notice

APA's experience demonstrates that compulsory notices are more effective when regulators engage early, test assumptions, discuss scope and work collaboratively with recipients before exercising compulsory information gathering powers. This is consistent with the process required for regulatory information notices.

Recommendation: The guideline should establish a formal, structured, collaborative and calibrated consultation process before a compulsory notice is issued.

- **Collaborative engagement** should allow the ERA and proposed notice recipient to discuss suggested scope and identify practical compliance issues, including information that does not exist or cannot be provided.
- **Voluntary information requests** should be attempted before issuing a compulsory notice, unless there is a clear reason not to do so.
- **Advance notices** pre-issue engagement should be the default position, unless there is urgency, or another clear forensic reason.
- **Compulsory notice guidance** should provide that if a regulatory information notice is available to the ERA, it will use that option unless there are special circumstances justifying use of a compulsory notice. A description or examples of those special circumstances would be consistent with procedural fairness.
- **Receipt of approval** are provided by the ERA so that compulsory notices, especially on oral-examination notices, are approved at Governing Body or senior executive level before they are issued.

Conduct of Oral Examinations

Oral examinations should only be used in exceptional circumstances with appropriate safeguards, where voluntary information-gathering or the issue of a compulsory information notices is inadequate or inappropriate.

Recommendation: The guideline should ensure this process maintains confidentiality, integrity and appropriate conduct during formal oral examination procedure.

- **Legal representation** should be available to examinees and should only be excluded where there is a demonstrated conflict or prejudice to the examination. The examinee should be able to obtain legal advice, including from internal corporate counsel, during the examination including on privilege and self-incrimination.
- **Procedural integrity** of all associated record-keeping should maintain accuracy and confidentiality of all records, with the procedures governing this process being clearly communicated to industry participants. Transcripts should be promptly supplied after the examination, unless there are reasons for short delay.

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- **Expanding cl 2.1.1** to explain who can rely on the privilege against self-incrimination, how it applies to existing documents, and what warning will be given before an oral examination.
- **Provision of non-disclosure directions** are limited and proportionate, with a prompt process for seeking withdrawal. The Draft Guideline should expressly allow disclosures needed to obtain legal advice and to meet necessary internal governance requirements, subject to confidentiality safeguards.

Confidential information

Commercially sensitive information must be held appropriately, through ensuring confidentiality and accountability obligations, preventing any loss or damages to industry.

Recommendation: The guideline should establish relevant processes and safeguards in order to protect privileged, confidential and commercially sensitive information.

- **Legal professional privilege** should add in a process for disputed privilege claims, confirm that privilege-log information is provided without waiver, and allow recipients to withhold particulars where giving them would disclose privileged content.
- **Maintaining confidentiality** must include safeguards for access to, storage of and disclosure of compelled information, especially commercially sensitive information. The Draft Guideline should also explain how compelled oral evidence will be used if proceedings follow.

  Relevance and redactions alongside a practical agreement process, that includes other protections for irrelevant, commercially sensitive or third-party material.

If you wish to discuss our submission in further detail, please contact Lizzie O'Brien on [redacted] or [redacted]

Regards,

[redacted]

Natalie Lindsay
General Manager, Regulation and External Policy