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Our Reference: APLNG – COR – 0014684

Gas Taskforce Division
Strategy and Engagement
Department of Industry, Science, Energy and Resources
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To Whom It May Concern

Submission Response on Gas Pipeline Draft Legal Package

Australia Pacific LNG (APLNG) welcomes the opportunity to make a submission to the Energy Senior Officials in relation to the release of the gas pipeline draft legal package for consultation dated 2 September 2021 (Legal Package).

APLNG, based in Queensland, is one of Australia's leading natural gas producers, supplying a significant proportion of east coast Australia's domestic gas needs. In CY21, APLNG is providing approximately 30 per cent of gas supply to the east coast gas market and has gas supply contracts with local industries and businesses out to 2030 and beyond. APLNG remains committed to supplying the east coast gas market, engaging with customers and working with the Federal Government to enhance the role of gas as a major contributor to the economic development of Australia and its energy future.

APLNG supports a streamlined regulatory framework for the gas market. Removing inefficiencies and regulatory complexity would enable an efficient gas system and competitive market that encourages investment and market-led solutions. Whilst supportive of streamlining the regulatory regime and simplifying the pathway to regulation, any new regulatory model should not affect existing contractual arrangements.

APLNG notes that the Legal Package broadly gives effect to the published package of pipeline reforms released by the Energy Ministers in the May 2021 Decision Regulation Impact Statement. As requested, APLNG has made specific comments on the Legal Package in the attached response template. Not all of the questions are relevant to APLNG's business and accordingly APLNG has not endeavoured to provide responses to each of the issues raised or questions posed.

Thank you for this opportunity to make this submission. If you have any questions, or would like to discuss this submission further, please contact Rowena Bragg at rowena.porter@originenergy.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read "Nick McKenna".

Nick McKenna
Chief Executive Officer
Australia Pacific LNG Pty Limited

Attachment B Stakeholder feedback template

Submission from Australia Pacific LNG Pty Ltd (APLNG)

The template below has been developed to enable stakeholders to provide feedback on the draft amendments to the NGL, Regulations and NGR as per the consultation paper. Energy Senior Officials strongly encourage stakeholders to use this template, so that it can have due regard to the views expressed by stakeholders on each issue.

1. Questions for stakeholders

Number	Question	Response
1 Page 22	Do you agree with the proposal to allow Chapter 4 of the NGL, or particular provisions in this chapter, to be applied to a person other than a service provider if prescribed in Regulations? If not, please explain why not.	<p>APLNG believes that a sale by a service provider of pipeline capacity would not circumvent the requirement incumbent upon them to comply with the regulations, as they would remain the entity with ownership, control and/or operation of the pipeline. Therefore, APLNG considers the existing definition of "service provider" adequately covers the field, such that there is no need for Chapter 4 of the NGL (or particular provisions of the chapter) to be applied to a person other than a service provider.</p> <p>In the event the reform is nonetheless implemented such that part or all of the provisions in Chapter 4 of the NGL apply to third parties, APLNG submits that it would be helpful to identify exactly which of the regulations apply as between the pipeline owner and the third party. This is because a blanket application could result in duplication and uncertainty in some respects. For example:</p> <ul style="list-style-type: none"> in respect of publishing prescribed transparency information, both the service provider and the third party would bear the obligation to comply. This could result in a situation where the two parties are required to publish the same information in respect of the same pipeline which is duplicative and could result in inconsistencies; and certain regulations do not make sense when applied to a third party acquirer of capacity e.g. the interconnection principles.
2 Page 22	Do you think it is necessary to prescribe any persons other than a service provider in the Regulations at the commencement of the legal package, or should it be assessed at a later stage? If you think the Regulations should prescribe any persons other than a service provider at the commencement of the legal package, please explain why.	<p>APLNG relies upon its response to Question 1 above.</p> <p>However, to the extent it is decided that part or all of Chapter 4 of the NGL should apply to persons other than service providers, APLNG advocates for delaying the nomination of any particular persons. In APLNG's view, market-led solutions are generally preferable and this would allow market participants time to adopt the measures and assess their consequences.</p>

Number	Question	Response
3 Page 22	Do you agree with the proposal to replace the voluntary access arrangement mechanism with a scheme election option? If not, please explain why not.	APLNG does not have any comments.
4 Page 25	Do you agree with the proposal to allow the relevant regulator to determine that a pipeline should be subject to full regulation if the service provider has not provided any of the required information in a timely manner and to the reasonable satisfaction of the relevant regulator? If not, please explain why not.	APLNG does not have any comments.
5 Page 27	Do you agree with the proposal to employ the same test for form of regulation and greenfields incentive determinations, but modified in the manner set out above?	APLNG considers the form of regulation factors, which are based on the economic concept of market power, to be appropriate. Whilst APLNG understands the advantages to streamlining regulatory requirements, APLNG is of the view that light regulation on greenfield pipelines may result in minimal benefit, given the nature of the production and transport.
6 Page 28	Do you agree with the proposal to remove the 15-year price regulation exemption and to treat all pipelines in the same manner for the purposes of any greenfields incentive? If not, please explain why not.	APLNG does not have any comments.
7 Page 30	Do you agree with the proposal to require expansions of non-scheme pipelines to be treated as part of the same pipeline for the purposes of the NGL and NGR? If not, please explain why not.	APLNG believes that a degree of flexibility should be retained in relation to pipeline expansions and regulation, particularly where the additional costs associated with regulation would need to be passed on to customers.
8 Page 32	Do you agree with the proposed changes to the pipeline classification and reclassification mechanism? If not, please explain why not.	APLNG considers the current classification mechanism to be appropriate. The reclassification of a pipeline has the potential to negatively impact the flexibility of gas supply. APLNG operates a portfolio based marketing strategy, and relies on network flow should unplanned events or outages occur. As such, APLNG supports a collaborative approach to reclassification which would enable service providers the opportunity to engage with and respond to the regulator prior to a reclassification decision being made.
9 Page 34	Rule 109 currently prohibits a service provider from making it a condition of the provision of a particular pipeline service that the prospective user accept a non-gratuitous service unless the bundling of services is reasonably necessary. Do you: (a) Agree with the scope of this prohibition, which has been adopted in the draft legal package and only applies to the bundling of non-gratuitous services?	Bundling is generally undesirable. It forecloses the opportunity for a third party to provide a service or for an acquirer of a service to make choices about the services that it acquires. APLNG considers the prohibition on bundling to be appropriate in scope and in that context. Assuming that bundling of gratuitous services has the potential to foreclose third party service providers, APLNG would also support broadening the prohibition.

Number	Question	Response
10 Page 35	<p>(b) Think the prohibition should apply more broadly to any bundling of services (i.e. gratuitous and non-gratuitous services) unless it is reasonably necessary?</p> <p>Do you think s. 134 of the NGL (renumbered s. 148E), which imposes obligations on producers in relation to the supply and haulage of natural gas using scheme pipelines, should be retained in the regulatory framework or removed? Please explain your response to this question.</p>	<p>Delivery points and key terms on delivery are ordinarily negotiated and agreed with counterparties as part of APLNG's commercial process. Given this clause relates to scheme pipelines, it is not presently relevant to APLNG's operations. The provision does not appear to grant any rights that cannot already be accessed by parties in any event, and therefore its purpose is unclear such that APLNG does not think it should be retained in the regulatory framework.</p>
11 Page 35	<p>If you think the obligation (refer to question 10) should be retained in the NGL, do you think:</p> <ol style="list-style-type: none"> it should continue to just apply to producers, or do you think the obligation should extend to retailers? Please explain your response to this question. it should continue to just apply to scheme pipelines, or do you think the obligation should extend to non-scheme pipelines? Please explain your response to this question. 	<p>As indicated in the response to Question 10, APLNG does not consider that the obligation should be retained in the NGL.</p>
12 Page 38	<p>Do you agree with the proposed interconnection requirements, or are there:</p> <ul style="list-style-type: none"> - other requirements that you think should be specified in the NGR? - some requirements listed in section 4.2 that you think should not be specified in the NGR? <p>If you think the proposed interconnection requirements need to be amended, please explain why you think this is required.</p>	<p>The proposed imposition of pipeline interconnection principles to non-scheme pipelines and covered pipelines subject to light regulation represents a significant increase in regulatory compliance obligations and administrative, commercial, operational and safety regulatory costs. APLNG considers that the proposed interconnection requirements should be applicable to scheme pipelines only, and the requirements to provide interconnection access and to develop and maintain an interconnection policy (for non-scheme pipelines) to all users/providers goes beyond what was contemplated in the Decision RIS.</p> <p>The proposed interconnection requirements would negate the necessary capacity flexibility that APLNG relies upon for managing the development of the resource base that underpins its existing contractual commitments, as well as its ongoing efforts to remain a material contributor to the east coast gas market. Potential impacts include new supply, linepack, material renominations, and ensuring reliable and safe delivery of gas to customers. Interruptions to the network or capacity downgrades could cause APLNG delays in getting gas to market in the short to medium-term, and could potentially result in more expensive transportation costs for existing customers.</p> <p>In terms of other requirements that should be specified, APLNG notes that rule 37 of the NGR establishes the foundational principle that a party has a right to connect to a pipeline facility so long as it is: (a) technically feasible and consistent with the safe and reliable operation of the pipeline; and (b) the person is prepared to fund the</p>

Number	Question	Response
		<p>interconnection. APLNG considers that being "prepared" to fund the interconnection is too low a standard. In order to prevent potentially frivolous applications and attempts to interconnect to pipelines, APLNG believes that (b) should read "the person will fund the costs associated with making the interconnection."</p> <p>In terms of requirements listed in section 4.2 (and replicated in Part 6 of the Rules) that should not be specified in the NGR, APLNG notes that the reforms do impose significant additional regulatory burden on service providers, who will be required to conduct significant amounts of upfront work to ensure that an interconnecting party can meet reasonable technical, safety and reliability requirements. APLNG does acknowledge, however, that the list of requirements appears to generally represent the necessary requirements that would give effect to the interconnection principles. APLNG would propose specifying indemnity provisions in the list of interconnection policy principles in item (d), noting that current industry practices when constructing interconnections is to adopt mutual indemnity or 'knock for knock' arrangements.</p> <p>As an additional consideration, APLNG believes that the interconnection policy should consider the requirement of dealing with a detachment or disconnection of an interconnection. Particular consideration would need to be given in this regard to gas quality specification, physical protection of infrastructure and safety.</p>
13 Page 40	Do you agree with the proposal to limit the prohibition on cross-subsidising the development of new capacity to transmission pipelines operating under the contract carriage model? If not, please explain why not.	APLNG is aligned to prohibition on cross-subsidising development of new capacity. Service charges on existing pipelines should not be used to cross-subsidise new capacity.
14 Page 40	Do you agree with the proposal to require the dispute resolution body in a scheme pipeline access dispute and the arbitrator in a non-scheme pipeline access dispute to (where relevant) give effect to the prohibition on cross-subsidising the development of new capacity in their access determinations?	Yes.
15 Page 45	Do you agree with the proposed cost allocation principles in the draft rules? If not, please explain why not.	APLNG believes that the cost allocation principles for schemed and covered pipelines outlined in Chapter 6 of the NGR could provide additional transparency to shippers and is supportive of this. However, for non-scheme pipelines or where third party access is not provided, service providers and shippers should be able to operate in an open market and negotiate terms of transport.
16 Page 45	Are the proposed cost allocation principles likely to conflict in any way with the principles applying to scheme pipelines in Part 9 of the NGR? If so, please explain in what way they conflict and how the conflicts could be resolved.	APLNG does not consider that there is likely to be any conflict.

Number	Question	Response
<p>17</p> <p>Page 47</p>	<p>Do you agree with the proposal to require service providers to publish the following non-price terms and conditions alongside the individual prices paid by shippers:</p> <ul style="list-style-type: none"> (i) the date the trade was entered into and the service term; (ii) the type of service provided and the service priority (e.g. firm, as available or interruptible); (iii) the receipt and delivery points at or between which the service is provided and in the case of a forward haul or backhaul service, the direction of the service; (iv) the contracted quantities, expressed as a maximum daily quantity (in GJ/day) and maximum hourly quantity (in GJ/hour); (v) the price escalation mechanism; (vi) whether or not the transaction is on the same or substantially the same terms as the pipeline's standard terms for that service; and (vii) the imbalance and overrun allowance associated with the service? <p>If you do not agree with this proposal because you think there are:</p> <ul style="list-style-type: none"> a other non-price terms and conditions or information that should also be reported (e.g. other non-liability caps, gas specification, higher heating value requirements etc), please identify what those other non-price terms and conditions are and why you think they should be reported; and/or b some non-price terms and conditions listed in (i)-(vii) that should not be reported, please identify what those non-price terms and conditions are and why you think they should not be reported 	<p>APLNG does not believe that the indicated non-price terms and conditions should be published under light regulation. Differences in the non-price terms and conditions shown opposite will not assist market participants in deriving fair prices for their particular requirements.</p> <p>APLNG strongly opposes the requirement to disclose any information that could potentially enable market participants to back-calculate or identify the prices paid by individual shippers for gas, and so is particularly cognisant of the disclosure of receipt and delivery points and individual prices paid by shippers in this regard. Considerable care will be needed to ensure the methodologies used to anonymise and aggregate data prior to its publication will prevent the identification of the party to whom the confidential and commercially sensitive information relates (particularly where disclosure may impact on competition). APLNG believes an approach that is consistent with broader regulatory initiatives relating to gas market transparency should be applied when reporting on gas transportation. If there is a way that confidential or commercially sensitive information can be de-anonymised, the competitiveness of domestic gas and LNG producers and buyers is likely to be significantly disadvantaged, potentially causing harm to the party (or parties) whose commercially sensitive information has been disclosed and to broader market participants.</p> <p>APLNG supports the position taken in the Decision RIS that pipelines that are not providing third party access should be exempt from all disclosure obligations.</p>
<p>18</p> <p>Page 52</p>	<p>In relation to past capital contributions, do you:</p> <ul style="list-style-type: none"> (a) Agree with the proposal to extend the requirement to consider past capital contributions to non-scheme pipelines? If not, please explain why not. (b) Think the requirement to consider past capital contributions should only apply to contributions of capital by the user to fund installations or the construction of new facilities, or should it also apply to contributions to the original construction of the pipeline? Please explain your response. 	<p>(a) As indicated in the response to Question 12 above, APLNG considers that proposed interconnection requirements should only be applicable to scheme pipelines. APLNG has made significant capital investment in the construction of its upstream pipeline network infrastructure. In the event that non-scheme pipelines are required to provide third party access, APLNG is supportive of the inclusion of the consideration of past capital contributions and treatment consistent with standard regulated pricing models.</p> <p>(b) Pipeline operators should be able to charge a reasonable rate of return on capital that does not lead to prohibitive access to infrastructure.</p>

Number	Question	Response
	(c) Think the extent to which a party has fully recouped past capital contributions should be taken into account by the relevant adjudicator when making an access determination?	(c) Where pipeline operators have fully recouped past capital contributions, this should certainly be relevant when adjudicators are making access determinations.
19 Page 52	Do you agree with the proposal to extend the safety of operation provisions to non-scheme pipelines? If not, please explain why not.	No. Safety in its facilities and operations is of the utmost importance to APLNG, and existing safety regulatory and reporting requirements are sufficient.
20 Page 56	Do you agree with the proposed definition of a small shipper? If not, please explain why you think this threshold is not appropriate and set out the alternative definition you think should be employed.	APLNG is supportive of the definition of small shipper.
21 Page 56	Do you agree with the proposal to accord small shippers that are using either a scheme or non-scheme pipeline the option to elect to have a dispute mediated by a regulator appointed mediator? If not, please explain why you think the extension of this option to scheme pipelines should not occur.	APLNG is supportive of the extension, however is of the view that the mediator should be agreed between the parties as opposed to appointed by the regulator.
22 Page 58	Do you agree with the proposed approach to each of the transitional arrangements set out in Table 9.1? If not, please explain why not.	Yes.
23 Page 58	Are there any other transitional arrangements that you think need to be provided for in the NGL or NGR? If so, please explain what they are and why they are required.	APLNG does not have any comments.
24 Page 58	Do you agree with the proposal to treat expansions that do not currently form part of a scheme pipelines that is subject to full regulation as part of the scheme pipeline from the commencement of the new package and to be rolled into the access arrangement at the next access arrangement review? If not, please explain why not.	APLNG believes that a degree of flexibility should be retained in relation to pipeline expansions and regulation, particularly where the additional costs associated with regulation would need to be passed on to customers. This should be assessed on a case-by-case basis.
25 Page 58	Are you aware of any transitional arrangements that would need to be provided for to account for similar examples under the regulatory framework?	APLNG does not have any comments.
26 Page 68	Do you agree with the proposal to remove the scheme pipeline grandfathering arrangement for contracts that were in force prior to 30 March 1995? If not, please explain why not.	APLNG does not have any comments.
27 Page 77	Do you agree with the proposal to require the following non-price terms and conditions to be published by Part 18A facility service providers alongside the individual price information? - the facility by means of which the service is provided;	APLNG acknowledges that many storage and compression service providers already disclose actual prices on a voluntary basis.

Number	Question	Response
	<ul style="list-style-type: none"> - the date the contract was entered into or varied and the service term (start and end dates); - the type of service provided (for example, a storage service, compression service) and the priority given to the pipeline service (such as firm, as available or interruptible); - the contracted quantity, which for: <ul style="list-style-type: none"> - a compression service facility should be the maximum daily quantity (in GJ/day); - a storage facility should be: <ul style="list-style-type: none"> • the storage capacity the subject of the transaction (in GJ); and • where relevant, the injection and withdrawal capacity, expressed as a maximum daily quantity or MDQ (in GJ/day); - whether the service is provided on the same or substantially the same non-price terms as those set out in the standing terms published by the service provider; - the price paid for the service as specified in the contract (if these prices are not expressed on a \$/GJ/day or €/GJ basis, service providers will also be required to publish the price converted to such a basis together with an explanation as to how the conversion was made); - the price structure applicable to the service (for example, whether it is a fixed price or a variable price or a combination of the two); and - any price escalation mechanism applicable to the price paid for the service. <p>If you do not agree with this proposal because you think there are:</p> <ol style="list-style-type: none"> a) other non-price terms and conditions or information that should also be reported, please identify what those other non-price terms and conditions are and why you think they should be reported; and/or b) some non-price terms and conditions that should not be reported, please identify what those non-price terms and conditions are and why you think they should not be reported. 	<p>APLNG does not consider that the indicated non-price terms should be published for compression and storage facilities that are subject to light regulation as they will not assist market participants in deriving fair prices for their particular requirements.</p> <p>Further, and for the reasons articulated in the response to Question 17 above, APLNG strongly opposes the requirement to disclose any information that could potentially enable market participants to back-calculate or identify the prices paid by individual shippers and/or users of compression and storage facilities. APLNG therefore supports the position per the Decision RIS that the only information that ought to be published by compression and storage facility operators that are providing third party access are:</p> <ul style="list-style-type: none"> • standing terms and standing prices for each service offered; and • information on the prices actually paid by users for primary capacity. <p>APLNG also endorses the acknowledgement in the Decision RIS that increased information disclosure requirements and administrative burden for service providers could result in increased costs being passed directly on to shippers and, in turn, end users of gas.</p>

Number	Question	Response
28 Page 77	Do you agree with the proposal to align the requirements for the standing terms with those that will apply to pipeline service providers? If not, please explain why not.	Yes.

2. Feedback on proposed changes

Section	Agreed measure	Feedback on proposed changes to the NGL / NGR / Regulations
		APLNG has no further feedback to provide.