

19 May 2022

Energy Ministers

Via email: [renewablegas@industry.gov.au](mailto:renewablegas@industry.gov.au)

To whom it may concern,

### **Extending the national gas regulatory framework to hydrogen blends and renewable gases - Changes to the NGL, NERL and Regulations**

Australian Gas Infrastructure Group (AGIG) welcomes the opportunity to provide feedback on the proposed amendments to the national gas regulatory framework to extend the framework to hydrogen and renewable gas (the review).

The review is an important step forward in developing the foundations for a renewable gas industry in Australia by proposing to recognise renewable gases under the national gas regulatory framework. We are strongly supportive of the reform as it will support investment in innovative projects that will not only reduce emissions for users of natural gas including in our gas networks, but also assist in increasing scale and driving down costs of hydrogen and other renewable gas projects.

This letter provides an overview of the key points in our submission with detailed responses to the questions found in Attachment A and feedback on the Draft Bills in Attachment B, followed by an overview of AGIG.

### **We support applying a flexible and fit for purpose regulatory framework to pipelines transporting renewable gas particularly in the face of uncertainty in the market's development**

We support the refined approach of the National Gas Law (NGL) specifically identifying gases and blends (in particular hydrogen and biomethane) that fall within the scope of the regulatory framework rather than leaving it to each jurisdiction to decide to 'opt in' renewable gas within the framework. This refined approach provides certainty to industry that renewable gas can play an active role in the facilitated markets going forward.

In the short-to-medium term, we broadly support the intention to extend the NGL to blended gases. This ensures that regulatory barriers do not restrict investments in renewable gas projects proposed to be commissioned and in planning over the next few years. In particular the proposed approach will enable renewable gas and hydrogen production facilities to access markets on at least equivalent terms to natural gas, providing a viable pathway to displace natural gas and reduce emissions.

However, for pipelines transporting primary gas (for example 100% hydrogen or biomethane) we support adopting a more flexible and a fit for purpose regulatory framework that balances the need to enable efficient access to infrastructure and provide market transparency while also minimising regulatory and market burdens to enable market development.

The proposal to apply the pipeline access regime to all pipelines transporting renewable gas (including non-third party pipelines) at the commencement of the reforms may not be appropriate at the very early stages of the industry's development where there is currently uncertainty. We have suggested additional measures that could be adopted to address concerns that applying the same pipeline access regime to a new industry may unnecessarily stifle or restrict proposed investments.

As outlined in our submission to the Official's paper, in the long term, increased competition from alternative energy sources is likely to mean that economic regulation (in Parts 8 to 12 of the National

Gas Rules) of pipelines transporting the various hydrogen and renewable gas products (and even natural gas) may not be appropriate. Low cost alternatives (including onsite hydrogen production as well as renewable electricity production and storage) is likely to diminish the market power of pipeline service providers over time. Therefore, we believe governments should in the future revisit the question of economic regulation of hydrogen and renewable gas pipelines as the market develops.

Further, we question the need to distinguish renewable gas blending into two separate activities (in-pipeline blending service (part of a pipeline service) and blending processing service (separate to a pipeline service)). The level of competition to emerge for the provision of the latter service is uncertain and may not occur to the extent envisaged.

At the outset of market development, the operators of the blending facility are likely to be the producer or the pipeline service operator (depending on the particular location and configuration). Requiring the parties to request a ring fencing exemption or create associates contracts for the provision of this service increases cost and administrative burden on the parties and may disincentivise investment and market development, which is contrary to the intention of this review.

### About AGIG

AGIG is the largest gas distribution business in Australia, serving more than 2 million customers through our networks in Victoria, Queensland, South Australia, and several regional networks in New South Wales and the Northern Territory.

At AGIG, we are committed to sustainable gas delivery today, and tomorrow. Our Low Carbon Strategy, targets 10% renewable gas in networks by no later than 2030, with full decarbonisation of our networks by 2040 as a stretch target and by no later than 2050.

We are now delivering on our strategy by deploying low carbon gas projects. Our projects include:

- Hydrogen Park South Australia – A 1.25MW electrolyser to demonstrate the production of renewable hydrogen for blending with natural gas (up to 5%) and supply to more than 700 existing homes in metropolitan Adelaide. HyP SA is now operational.
- Hydrogen Park Gladstone – A 175kW electrolyser to demonstrate the production of renewable hydrogen for blending with natural gas (up to 10%) and supply to the entire network of Gladstone, including industry.
- Hydrogen Park Murray Valley (HyP Murray Valley) proposal – A 10MW electrolyser to produce renewable hydrogen for blending with natural gas (up to 10%) and supply the twin cities of Albury (New South Wales) and Wodonga (Victoria), with the potential to supply industry and transport sectors.

Once again, I would like to thank you for the opportunity to provide feedback on the review. Should you have any queries about the information provided in this submission please contact Jenny Thai, Senior Policy Advisor ([jenny.thai@agig.com.au](mailto:jenny.thai@agig.com.au) or 0419 428 348).

Yours sincerely,



**Kristin Raman**  
**Acting Executive General Manager People and Strategy**

## Attachment A: AGIG Stakeholder feedback template

No.	Questions	Feedback
<b>Related to:</b>	<b>Proposed approach to specifying the gases and blends within scope of national gas regulatory framework</b>	<b>n/a</b>
1	What are your views on the refined approach to identifying the gases and blends that could fall within the scope of the national framework (see section 3.1)?	<p>We consider this refined approach in identifying gases and blends that fall within the scope of the National Gas Law (NGL) at the commencement of the reforms provides certainty to industry, in particular that renewable gases and hydrogen (including blends) can play an active role in the facilitated markets going forward.</p> <p>While the original proposal of the NGL requiring jurisdictions to make a local regulation to confirm when a gas or gas blend authorised for supply through a pipeline (or part of a pipeline) could have been a workable solution, there would be an increased administrative burden on industry and the jurisdictions. Also there was also a risk that each jurisdiction could have taken a different approach in its assessment of what is considered a natural gas equivalent (NGE) product.</p>
<b>Related to:</b>	<b>Proposed extension of the NGL and National Gas Regulations</b>	<b>n/a</b>

No.	Questions	Feedback
2	<p>What are your views on the refined approach to extending the NGL to covered gases (see section 3.3)? Where appropriate, please comment in relation to the subheadings below.</p>	<p><u>Blended gases</u></p> <p>In the short-to-medium term, we broadly support the intention to extend the NGL to blended gases. This ensures that regulatory barriers do not restrict investments in renewable gas projects proposed to be commissioned and in planning over the next few years. In particular, the proposed approach will enable renewable gas and hydrogen production facilities to access markets on at least equivalent terms to natural gas, providing a viable pathway to displace natural gas and reduce emissions.</p> <p><u>Primary Gases</u></p> <p>For pipelines transporting primary gas (for example 100% hydrogen or biomethane) we support adopting a more flexible and a fit for purpose regulatory framework that balances the need to enable efficient access to infrastructure and provide market transparency while also minimising regulatory and market burdens to enable market development.</p>

<p>2.1</p>	<p>What are your views on the proposed extension of the pipeline access regime to all pipelines transporting covered gases (i.e. natural gas, biomethane, synthetic methane, hydrogen and blends of these gases) and the impacts it may have on smaller players or new entrants? In responding to this question please consider:</p> <ul style="list-style-type: none"> <li>• the proposal to extend to the regime in this way from the commencement of the reforms;</li> <li>• the potential impact on industry development, including where it may support the development a competitive and cost-efficient hydrogen and renewable gas industry, or may create barriers;</li> <li>• the proposed changes to the pipeline ring-fencing arrangements; and</li> <li>• the proposed power to exempt remote pipelines.</li> </ul>	<p><u>The proposal to extend the pipeline access regime in this way from the commencement of the reforms</u></p> <p>We question whether it is appropriate to apply the proposed pipeline access regime to all pipelines transporting primary gases (100% biomethane and hydrogen) at the outset of market development. Hydrogen and other renewable gases need time for appropriate business models to emerge and therefore flexibility within the regulatory framework is imperative to enable the required innovation to occur.</p> <p>We would support taking a more flexible approach in applying the regulatory framework that balances the need to enable efficient access to infrastructure and provide market transparency while also minimising regulatory and market burdens to enable market development.</p> <p><u>The proposed changes to the pipeline ring-fencing arrangements: Blend processing services</u></p> <p>While we recognise a blend processing service (provided by means of a stand-alone blend processing facility) may be a potentially contestable service in the future, the level of competition to emerge might not occur to the extent envisaged to justify the distinction between in-pipeline blending service (part of a pipeline service) and blending processing service (a separate service to a pipeline service) at the outset of market development.</p> <p>At the outset of market development, the operators of the blending facility are likely to be the producer or the pipeline service operator (depending on the particular location and configuration). Third party suppliers might not emerge over time particularly as a blending service is likely to be a finite service and may no longer be required once networks transition to transporting 100% renewable gas.</p> <p>Requiring ring fencing to apply to the provision of blend processing services may be an unduly administrative burden particularly on small producers and also service providers in requiring them to seek a ring fencing exemption or offer the service through an associate of the service provider. This proposal may disincentivise investment and market entry which is contrary to the purpose of the review.</p> <p>For a producer, the proposed new light-handed access regime for blend processing facilities would facilitate efficient third party access. For a service provider, the blend processing service can also be treated as a pipeline service, and would be subject to the pipeline third party access regime and the same form</p>
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No.	Questions	Feedback
		of regulation that applies to the pipeline would also apply. This would alleviate concerns around efficient access and market power.
2.2	What are your views on the proposed new light-handed access regime for blend processing facilities?	If adopted, the proposed new light-handed access regime for blend processing facilities seems reasonable as it allows third parties to seek efficient access. The proposal also recognises that where there is no third party user, the framework should be fit for purpose and minimise regulatory and administrative burden. For example, as mentioned in the consultation paper, we would support the National Gas Rules provide for exemptions to be granted from the requirement to publish access information and to comply with the ring-fencing and associate contract arrangements to blend processing facility with no third party users.
2.3	When developing the refined approach, a number of steps have been taken to minimise regulatory costs and risks for industry participants and new entrants. Do you think any additional steps are required? If so, please explain what they are and why they are required.	<p>While we recognise there are measures available to mitigate the costs and the risk of regulation (such as greenfields exemptions and price protection, reducing reporting obligations), we would support additional measures being introduced to reflect that applying the same level of regulatory oversight that applies to the mature natural gas transport market to a new industry may risk investment and development in the renewable gas industry.</p> <p>For new pipelines transporting 100% hydrogen and biomethane, the greenfields exemptions and price protection could automatically apply for up to 15 years rather than having to seek a regulator determination before greenfields protections is applied.</p>
2.4	<p>Do you agree with the AEMC's recommendations (see section 3.2) that the NGL be amended to:</p> <ul style="list-style-type: none"> <li>• enable rules to be made so that AEMO can collect information for the purposes of the VGPR and capacity modelling from facilities that do not otherwise participate directly in the DWGM?</li> <li>• limit the potential for the unintended application of the GSOO provisions in the NGL?</li> </ul> <p>If you disagree with either of these recommendations, please explain why.</p>	No comment.

No.	Questions	Feedback
2.5	<p>Do you agree with the AER’s recommendations (see section 3.2) that the NGL be amended to:</p> <ul style="list-style-type: none"> <li>• accord the regulator the power to impose additional ring fencing requirements on a class of service providers or associates through a ring-fencing order?</li> <li>• allow conditions to be imposed on minimum ring-fencing exemptions issued under the NGR?</li> </ul> <p>If you disagree with either of these recommendations, please explain why.</p>	<p><u>Additional ring-fencing requirements on a class of service providers or associates</u></p> <p>We disagree with the Australian Energy Regulator’s (AER) recommendation, as the risk of unintentionally capturing service providers in the class order (that should not be subject to the ring-fencing order) outweighs the benefit identified by the AER in addressing concerns it may inadvertently miss a service provider or an associate in a determination. We are unaware this has been a widespread problem that warrants amendment to the current arrangements.</p> <p>Further, we would expect the AER to engage with each service provider to identify the correct service provider entity or associate prior to issuing an order, to avoid inadvertently missing a service provider or an associate in a determination.</p> <p><u>Conditions imposed on minimum ring-fencing exemptions</u></p> <p>The AER’s recommendation to allow conditions to be imposed on minimum ring-fencing exemptions issued under the National Gas Rules is reasonable and it may be appropriate to grant exemptions on a conditional basis.</p>



No.	Questions	Feedback
3.2	What are your views on the separate authorisation and exemption of natural gas and NGEs (as one group) and prescribed covered gases (as separate products)?	No comment.
3.3	Are any transitional arrangements required in the NERL to accommodate the extension to covered gases? If so, explain what they are and why they are required.	Our Hydrogen Park SA demonstration plant has been in operation since May 2021 and we have received the regulatory and safety approvals to distribute blended hydrogen through our AGN SA distribution network. We consider that on the NGL extension date, our section of the distribution network that hauls NGEs to be a 'deemed natural gas equivalent distribution system' and is already authorised to haul the NGEs rather than having to seek authorisation.

## Attachment B - Feedback on proposed changes to the Draft Bill

Section of Draft Bill	Feedback
<b>Feedback on the proposed amendments to the National Gas Law</b>	
6 and 25	It is unclear why "related goods and services" have been included.
22	It is unclear why this change has been made.
23	<p>It is unclear why amendment refers to "primary gases" rather than "covered gases". This difference means that "producer" as defined will not include:</p> <ul style="list-style-type: none"> <li>• a person who produces a blend of primary gases (although such a person might be a "blend processing service provider"); or</li> <li>• a person who produces a gas which is included as a covered gas by a local regulation.</li> </ul>
85	As amended, the section reads as though there are several separate markets for different types of covered gas. From a technical drafting perspective, it would be clearer to draft the change to read "a retail market for a covered gas or covered gases" to cover those situations where different types of covered gases are substitutable (and, therefore, form part of the same product market).
88	<p>As currently drafted, section 143 allows the AER to impose additional ring-fencing requirements on a named service provider or a named associate of a service provider. With the proposed amendments:</p> <ul style="list-style-type: none"> <li>• section 143 will continue to allow the AER to impose additional ring-fencing requirements on a named service provider or a named associate of a service provider; and</li> <li>• section 144 will extend this power to allow the AER to impose additional ring-fencing requirements on a class of persons specified in an order. Those requirements will automatically apply to any associates of persons within the class.</li> </ul> <p>There is nothing in section 144 which limits the persons who can be included in a class. For instance, there is nothing to say that persons can only be included in a class if they are service providers. The power under section 144 is unconstrained.</p>
92	The proposed new-ring fencing provisions will prevent a service provider from providing – or continuing to provide - pipeline services, without an exemption, where it is an associate of a blend processing service provider. This will mean that existing gas transmission and distribution businesses will need an exemption from Part 3, in order to remain in business, if they have an associate that is a blend processing service provider (or is a person in a class prescribed by the National Regulations).