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COAG Energy Council
Consultation RIS – Options to improve gas pipeline regulation
Via email gas@environment.gov.au

To whom it may concern

Consultation RIS – Options to improve gas pipeline regulation

Australian Gas Infrastructure Group (AGIG) welcomes the opportunity to make this submission to the Consultation Regulation Impact Statement (RIS) on options to improve gas pipeline regulation (the Consultation RIS). The Consultation RIS is an opportunity to build on reforms to date, particularly by removing inconsistencies in the regime and recognising the need for ongoing delineation between the proposed lighter regulation and full regulation of gas pipelines.

After introducing AGIG this letter outlines views on key aspects of the Consultation RIS. Attachment A provides detailed responses to some of the questions in the Consultation RIS using the Stakeholder feedback template.

About AGIG

AGIG is one of the largest gas infrastructure businesses in Australia. We serve over two million customers across every mainland state and the Northern Territory through 34,000km of distribution networks, more than 3,500km of transmission pipelines and 57 petajoules of storage capacity.

A central element of AGIG's vision is to deliver for our customers. We know that if we do not deliver for our customers on safety, reliability, customer service, price or sustainability they may pursue other energy solutions.

Furthering our commitment to put customers at the centre of our business, we are proud to be a founding member of the Energy Charter – giving extra visibility and accountability to this commitment.

Recent reforms and the move to default open access regulation

We are in the business of providing pipeline services to our customers – we have no interest in restricting access and include "delivering for customers" in our vision. We therefore welcome measures that make open access the default model for Australian pipelines and thereby support greater stability in the regulatory regime.

We also welcome the opportunity presented in this RIS to incrementally build upon recent pipeline reforms, including:

- *Regulation of non-scheme pipelines* - the introduction of Part 23 of the National Gas Rules (NGR) improving transparency of and access to non-scheme pipelines; and

- *Strengthening of light and full regulation* - the Australian Energy Markets Commission's (AEMC's) review of the NGR, Parts 8 to 12 which provided additional transparency measures for regulated pipelines and introduced a major reform to how services are regulated for full regulation pipelines.

Importantly, these reforms should be given sufficient time to be implemented and to become familiar to customers, service providers and regulators in order for them to achieve their intended outcomes. Therefore, we believe the RIS provides an opportunity to incrementally build on these reforms, acknowledging where they have been successful, where overlaps can be reduced and improvements made, without re-writing the negotiate-arbitrate model.

As an example of the success of recent reforms, we observe that the first round of Australian Energy Regulator (AER) decisions under the new reference service proposal rules were published in December. In these, the AER approved the reference service proposals of two distribution pipelines, including our South Australian network (Australian Gas Networks SA).

However, the AER required the one proposal for a transmission pipeline to expand its portfolio of reference services to include an additional service as a reference service, beyond one firm forward haul service.

These AER decisions show both that:

1. The full regulation regime for distribution pipelines continues to function well; and
2. Given time to embed, recent reforms should improve its functioning for full regulation of transmission pipelines, by providing more information disclosures in support of negotiated service offerings.

We recognise that the introduction of Part 23 of the National Gas Rules now means all pipelines are regulated by default (through varying disclosures and negotiate/arbitrate) except non-third party access pipelines which are fully exempt. With Part 23 establishing a default level of regulation, and to avoid overlap between forms of regulation, we agree with the RIS that existing light regulation and Part 23 regulation in effect could be merged into a 'lighter' form of regulation using appropriate transition arrangements.

Outside of these arrangements, we believe there is only a case for limited further reforms to Part 23.

It is too early to test if Part 23 has served its intended purpose of correcting the perceived misuse of market power. The early stage of implementation suggests reforms coming from the RIS process should look to improve its operation rather than re-write its overarching operation.

However, the market power of pipelines is not static and it will be appropriate to review this level of regulation in future, including as natural gas becomes subject to more competition from renewable electricity, electrification of services/activities previously served by gas, and hydrogen.

Full regulation must remain sufficiently differentiated from the new lighter form of regulation

In support of the existing negotiate-arbitrate model, we believe it is also important to maintain a differentiation between the forms of regulation, the arbitration/dispute-settlement available and the nature of the regulatory process overall.

Full regulation of pipelines provides a different level of intervention and customer protection (with National Energy Consumer Law applying for full and light regulation pipelines, not Part 23 pipelines). Full regulation will be less effective if it is too closely harmonised with lighter regulation. Convergence could see pipelines which do not warrant full regulation regulated under this form – incurring costs for customers that exceed the benefits and therefore reducing the efficiency of the arrangements. We accept that access arrangements are appropriate for many pipelines, however, the over-application of full regulation could erode its value.

Where full regulation is imposed it must recognise this need for sufficient differentiation from lighter regulation by:

- Retaining the independent decision making by the National Competition Council (or an equivalently independent and qualified panel) for moving between lighter regulation and full regulation which in our experience has supported robust and timely decisions.
- Adopting a clear requirement for the decision maker to be satisfied that moving to full regulation will result in a net benefit so as to avoid over regulation where it would not benefit customers.
- In large part retaining the current form of regulation factors for moving between lighter regulation and full regulation. In our experience these factors have worked well with valuable precedent available on the information needed to apply them and their interpretation.
- Preserving a regulatory-oriented arbitration mechanism when there are reference services available on the pipeline, and commercial arbitration for the proposed 'lighter' form of regulation. For full regulation this will encourage shippers to properly engage in the AA review process and the regulator's consideration thereof, and avoids the risk of forum shopping by shippers between the regulatory process and a commercial arbitration option. Meanwhile, for lighter regulation it ensures this form is focussed on commercial and negotiated processes and outcomes in recognition of the more limited market power held by these pipelines.
- Retaining current information disclosures for regulated reference services and provisions for regulator information requests to facilitate their new reference service proposal powers.
- Acknowledging that we work to provide potential shippers with the information they need including during requests for non-reference services, and that reference services and the new reference service proposal process provide added transparency for conducting negotiations for non-reference services.

Once again, I thank you for the opportunity to provide a submission to the Consultation RIS. Should you have any queries about the information provided in this letter please contact Drew Pearman, Manager of Policy and Government Relations (drew.pearman@agig.com.au, 0417 544 731).

Yours sincerely,

Craig de Laine
General Manager People and Strategy

Pipeline Regulation Consultation Regulation Impact Statement – Stakeholder feedback template

Submission from Australian Gas Industry Group (AGIG)

This template is to assist you to provide feedback on the COAG Consultation RIS titled *Options to improve gas pipeline regulation*. The template focuses on the questions asked through the RIS, which seek your views on issues which are central to the identified problems and proposed options. You may not wish to answer each question and there is no obligation to do so. If you wish to provide additional feedback outside the template, wherever possible please reference the relevant question to which your feedback relates. Thank you for your feedback.

Chapter 5: Effectiveness of Part 23

No.	Questions	Feedback
1	If you are a shipper that has negotiated with the operator of a non-scheme pipeline since August 2017, or a service provider of a non-scheme pipeline, how effective do you think Part 23 has been in terms of:	n/a
	(a) enabling shippers to make more informed decisions about whether to seek access and to assess the reasonableness of a service provider's offer?	
	(b) reducing the information asymmetries and imbalance in bargaining power that shippers can face in negotiations?	
	(c) facilitating timely and effective commercial negotiations between shippers and service providers?	
	(d) constraining the exercise of market power by service providers during negotiations by providing for a credible threat of intervention by an arbitrator?	
	(e) enabling disputes that cannot be resolved through negotiations to be resolved in a cost-effective and efficient manner?	
2	Do you agree with the observations and recommendations made by:	
	(a) respondents to the OGW shipper survey (see section 5.1)? If not, please explain why not.	

No.	Questions	Feedback
	(b) the Brattle Group in its review of the financial information (see section 5.2)? If not, please explain why not.	We note the Brattle Group review did not consider any AGIG pipelines – including the one AGIG pipeline which provides a financial report under Part 23 (this pipeline is exempt from some of the financial reporting requirements, eg, weighted average pricing, for confidentiality reasons).
	(c) the ACCC in its review of the operation of Part 23 (see section 5.3)? If not, please explain why not.	Regarding the preliminary enquiries option, removing the preliminary enquiries option would push all access requests to the regulated process by effectively limiting more informal processes which are often to the benefit of shippers. Preliminary enquiries simplify the contact between potential users and service providers by enabling a less formal channel through which issues can be considered and resolved. However, a formal enquiry is always available as per user access guides published on our website. This would be at odds with the workable competition objective and the overarching intent of the negotiate/arbitrate framework.
3	Are there any changes that you think need to be made to Part 23 to make it more effective or efficient in terms of achieving its stated objective (i.e. to facilitate access at prices and on other terms and conditions that, so far as practical, reflect the outcomes of a workably competitive market)?	It is too early to test if Part 23 has served its intended purpose of correcting the perceived misuse of market power. The early stage of implementation suggests reforms as a result of the RIS process should look to improve its operation rather than re-write its overarching intent.

Chapter 6: Potential problems and objectives of action

No.	Questions	Feedback
4	Do you agree with the problems that have been identified and what effect do you think they could have on shippers, service providers, the relevant regulator, consumers and/or other gas market participants?	
5	Are there any other problems that you think should be considered as part of the RIS (e.g. access to regional pipelines)? If so, please set out what they are, what effect you think they could have on shippers, service providers, the relevant regulator, consumers and/or other gas market participants, and how you think the problem should be addressed.	
6	Are there any other objectives that you think the Energy Council should be pursuing? If so, please set out what they are.	

Chapter 7: When a pipeline should be subject to regulation and how decisions should be made

No.	Questions	Feedback
7	Do you think that the current threshold for regulation (i.e. all pipelines providing third party access are subject to regulation) is giving rise to over-regulation (see sections 7.2.1 and 7.3.1), or do you think the current threshold should be maintained?	Part 23 was a deliberate intervention to address alleged misuse of market power by some parts of the industry. This default level of near-universal pipeline regulation may not be the right long-term solution for Australia, but it is too early to test if Part 23 has served its intended purpose of correcting the perceived misuse of market power. We recognise the regime is now one of default regulation. Within this regime, we are not aware of any customer or stakeholder views which suggest any of AGIG's pipelines are currently under (or over) regulated. As such, policy focus should be on ensuring the options available through the proposed lighter regulation (combining light regulation and Part 23 regulation) remain readily available in the lighter form of regulation with exemptions permissible through a low cost and predictable administrative process. We recommend that COAG review this level of regulation in future, including as natural gas becomes subject to more competition from renewable electricity, electrification and hydrogen.
	(A) If you think it is giving rise to over-regulation: (a) How significant do you think this issue is and what are the consequences likely to be?	
	(b) Do you think the risk of over-regulation should be addressed by: (i) including an exemption mechanism in the regulatory framework to enable pipelines that do not have substantial market power to obtain an exemption from regulation? (ii) limiting the application of regulation to those cases where it is established that the pipeline has substantial market power? (iii) another means?	Where any reforms make the proposed lighter regulation the default, they should have simple administrative and predictable exemptions as already apply. Specifically, the exemptions already under Part 23 should be maintained under the proposed lighter regulation, to help reduce the risk of over regulation. For example, single shipper pipelines should remain exempt from many of the requirements until such a point that a second shipper may require the information. This approach will address a significant part of the risk of over regulation. The market power of pipelines changes over time and is subject to more competition from renewable electricity, electrification of services/activities previously served by gas, and hydrogen. Therefore it is important to recognise that the market power of pipelines currently considered to warrant regulation might diminish in the near or long-term – the timing of such a change will vary from pipeline to pipeline.

		It is therefore consistent with good practice to provide a mechanism enabling pipelines without substantial market power to have an option to apply for an exemption from all regulation. To this end, we support item (b)(i).
	(B) If you think that (i) or (ii) should be implemented, do you think the test for establishing whether a pipeline has substantial market power should be based on the combined market power-NGO test proposed by the ACCC (see Box 7.6)?	The combined market power-NGO test is an appropriate base for the exemption.
	(a) If so, do you think the onus of demonstrating this test is met (or not met) should sit with the decision-maker or the service provider?	The service provider should have the onus for demonstrating an exemption is appropriate. The decision maker should have the onus of proof in demonstrating an exemption is no longer appropriate, and a service provider a right of response, in order to revoke an exemption where a request for regulation is made.
	(b) If not, please explain why and what test you think should be employed.	
8	Do you think the application of Part 23 to pipelines providing third party access that have obtained a greenfield exemption is distorting investment incentives for greenfield pipelines (see sections 7.2.2 and 7.3.2), or do you think the current approach should be maintained?	n/a
	If you think it is distorting investment incentives: (a) How significant do you think this issue is and what are the consequences likely to be?	
	(b) Do you think this issue should be addressed by: (i) providing these pipelines with a full exemption from regulation? (ii) providing these pipelines with an exemption from the Part 23 arbitration mechanism, but not from the disclosure and negotiation elements of Part 23? (iii) another means?	
9	Why do you think:	The greenfield exemption has rarely been used because they do not provide sufficient certainty, sufficiently early in the pipeline development process, as to the regulatory treatment that will be applied to a new pipeline. Furthermore, the exemption is from coverage rather than regulation, meaning the default form of regulation is Part 23 even with a greenfield exemption (assuming Part 23 exemptions do not apply).

		Greenfields exemptions, using the proposed market-power NGO test should allow for exemption from both forms of regulation (lighter and full) under the proposed arrangements.
	(a) the greenfield exemptions in the NGL have not been used by a greater number of service providers?	
	(b) the CTP provisions in the NGR have not been used by a greater number of shippers or governments?	Tenders for new pipelines are conducted in a competitive market with a number of pipeline service providers/builders competing for each opportunity. The CTP provisions do not add significant value, and even in amended form would likely only add additional costs to an existing well-functioning competitive process.
10	Do you think the greenfield exemptions and CTP provisions should be retained in the regulatory framework, or do you think:	n/a
	(a) changes to the greenfield exemptions and/or CTP provisions are required?	
	(b) the greenfield exemptions and/or CTP provisions should be replaced with another mechanism that would provide potential developers with greater certainty as to how new pipelines will be treated from a regulatory perspective, while also protecting potential users of these pipelines from exercises of market power?	
11	Do you think the current approach to seeking access to pipelines that are not providing third party access should be maintained (i.e. a decision must be made by the relevant Minister having regard to the NCC's recommendations and the coverage test), or do you think it should be mandatory for all pipelines to offer third party access on a non-discriminatory basis, as it is in the US and Canada (see sections 7.2.3 and 7.3.3)? Please explain your response to this question and set out what you think the costs, benefits and risks are likely to be of mandating third party access.	AGIG as a pipeline services provider is supportive of third-party access as the default, with exemptions available from components of regulation, and full exemptions available where the pipeline is found to not have substantial market power as noted above.
12	If the current threshold for economic regulation is maintained and a test for regulation is only required for third party access and greenfield exemption decisions, which of the following tests do you think should be employed (see section 7.3.4) and why: (a) the coverage test; (b) an equivalent test to the recently amended Part IIIA test;	A market-power test like the one outlined in the RIS is appropriate for considering whether a pipeline should be subject to regulation at all (ie, subject to either lighter or full regulation), and would improve on the current coverage test, which is limited to one type of market power. In combining such a test with an NGO test, care should be taken in drafting to ensure the intent of the NGO is maintained. Specifically, the NGO seeks to balance what can be competing objectives. These objectives need to continue to be balanced.

	(c) an NGO-style test; or (d) a combined market power-NGO test?	We support the broad direction of the market power-NGO test in the RIS, but note the proposal is conceptual and not specifically drafted for inclusion in the NGL. We therefore consider it important that users and service providers have the opportunity to be consulted in the drafting of the specific test.
	Do you think the onus of demonstrating the test is met (or not met) should sit with the decision-maker or service provider?	As per 7(B)(a) above, the service provider should have the onus for demonstrating an exemption from regulation is appropriate. The decision maker should have the onus in revoking an exemption.
13	Do you think the governance arrangements associated with third party access and greenfield exemption decisions are giving rise to unnecessary costs and delays, or do you think the current arrangements should be maintained (see sections 7.2.4 and 7.3.5)?	No. AGIG's experience with the governance arrangements for the existing coverage test does not support the view that it gives rise to unnecessary costs and delays. For our Wagga Wagga gas distribution network, the process from application to final recommendation by the NCC was conducted in just over four months, with a further eight months until a Ministerial decision was made. This length of time is reasonable considering that the Ministerial process for our Wagga Wagga network was delayed as a result of a change of the relevant Minister at the time.
	If you think the current arrangements could give rise to unnecessary costs and delays: (a) How significant do you think this issue is and what are the consequences likely to be?	n/a
	(b) Do you think this issue should be addressed by according a single organisation responsibility for making this decision? If not, please explain why not.	No. It is good regulatory practice to separate the decision maker under a set of rules from the enforcer of the same rules. The distinction between the two roles was first recommended by the Hilmer Committee and adopted by COAG in intergovernmental agreements dealing with competition and energy policy. The case has not been made for abandoning this approach. The risks of a single agency both determining the scope/incidence and implementation of rules of economic regulation include the risk that the single regulator is subject to confirmation bias. That is, the risk that regulators have an unconscious bias towards the benefits of regulation, and therefore have a bias towards decisions that increase the scope of regulation. Further, the decision to regulate is a non-trivial intervention that warrants both expert competition assessment skills (as the NCC is proven to have) as well as social benefit assessment (which rests best with elected representatives). As noted above this requires sufficient time and expertise to come to an appropriate decision.

	If so:	(i) What expertise do you think this organisation should have?	
		(ii) Which of the following organisations do you think should be responsible for making this decision: - the ACCC? - the relevant regulator (i.e. the AER or the ERA in Western Australia)?the NCC? - another organisation?	
14	If a change is made to the governance arrangements, do you think the same organisation should also be responsible for making form of regulation decisions (see Chapter 8)?		AGIG considers the form of regulation decisions should remain with the NCC, particularly if the proposed 'lighter regulation' encompasses the current light regulation form of regulation and Part 23. As noted above, our experience is that the current process for form of regulation decisions is thorough and efficient. The Light Regulation determination for our Queensland Gas Distribution Network was completed in less than three months from application to final determination by the NCC (no Ministerial decision was required).
15	Are there any other problems with this aspect of the regulatory framework that have not been identified in this chapter? If so, please outline what they are and how you think they should be addressed.		

Chapter 8: Forms of regulation

No.	Questions		Feedback
16	Do you think the use of the coverage test as a gateway between Part 23 and full regulation is resulting in under-regulation? (A) If not, please explain why not.		No, Part 23 is itself significant regulation. There is no evidence that under-regulation (by form) is currently an actual problem (given the increase in recent years in pipelines regulated under Part 23). That said, simplification could be achieved if the proposed 'lighter regulation' will encompass the current light regulation and Part 23. Under this approach the form of regulation test would be retained (or amended) and applied by the NCC to move between lighter regulation and full regulation. The form of regulation factors test remains appropriate because if lighter regulation is the default, open access will remove the need to apply coverage test at this point (i.e. the coverage test or a new market power/NGO test would only apply for exemptions). Furthermore, a clear delineation between the two forms is essential. Adopting a clear requirement for the decision maker to be satisfied that moving to full regulation will result in a net benefit would achieve this, so as to avoid over regulation where it would not benefit customers.
	(B) If so:	(a) How significant do you think this issue is?	
		(b) Do you think the coverage test should be removed and a single test used for moving between the alternative forms of regulation? If so, do you think the single test should be based on: (i) the form of regulation test in s. 122 of the NGL (see section 3.1.1)? (ii) another test?	
		(c) Do you think: (i) the onus of demonstrating that a particular form of regulation should apply to a pipeline should sit with the applicant or decision making body; or (ii) the onus should be on the service provider to demonstrate why a heavier handed form of regulation is not required?	
		(d) Do you think the relevant regulator should play a greater role in monitoring the behaviour of service providers and be able to refer pipelines for a form of regulation assessment if it suspects market power is being exercised?	

No.	Questions		Feedback
17	Do you agree that the inconsistencies and overlap between the three forms of regulation that are currently available under the regulatory framework are increasing the complexity and administrative burden for regulators, shippers and service providers? (A) If not, please explain why not.		We are not aware of any specific concerns regarding ongoing and minimal inconsistencies between existing Part 23 regulation and light regulation. However, we accept that for regulatory simplicity the current light regulation and Part 23 could be merged to form a new 'lighter' regulation. If light regulation is removed, the current form of regulation factors remain a relevant threshold assessment to move to full regulation, but could be further differentiated from full regulation by adopting a clear requirement for the decision maker to be satisfied that moving to full regulation will result in a net benefit.
	(B) If so:	(a) How significant do you think this issue is?	
		(b) If the number of forms of regulation was reduced to two, do you think:	

No.	Questions		Feedback
		(i) the heavier handed form of regulation should be based on: - full regulation (i.e. negotiate-arbitrate with reference tariffs)? - direct price (revenue) control? - another form of regulation?	The current full regulation should be retained. The way in which full regulation is currently administered for gas distribution pipelines (e.g. with reference transportation and ancillary services and reference service agreements approved in the AA) is essentially no different to direct control regulation. The ERA/AER also have existing powers within the NGR to align these if they felt it preferable to do so under the NGO and revenue and pricing principles. Furthermore, full regulation distribution pipelines tend to transact predominantly (around if not more than 95% of revenue in the case of AGIG networks) using reference services and tariffs. These facts suggest there is very little risk of under regulation for full regulation distribution pipelines. For transmission pipelines, the risk of under regulation within the full regulation form of regulation has been significantly lessened by the changes arising from the AEMC's review of Parts 8-12 of the NGR. In particular, the AEMC reforms for pipeline service classification (Rule 47A) under full regulation materially improve the efficacy of full regulation for some full regulation transmission pipelines that have to date not offered a sufficient number of reference services. These reforms have recently resulted in direction by the AER for new reference services to be established by a service provider. With this evidence, any consideration of under regulation of full regulation pipelines should wait and allow time for the AER/ERA to further apply the new reference service rule 47A to full regulation pipelines in a round of AA reviews. AGIG's only fully regulated transmission pipeline (the Dampier Bunbury Pipeline) has a menu of reference services that span the breadth of full haul, part haul, and backhaul services (unlike many other full regulation transmission pipelines) in line with customers' expectations. These reference services (and equivalent services on negotiated terms) represent 97% of our revenues on the pipeline. Overall, the current full regulation approach is working well, with built in opportunities to improve based on the AEMC reforms. We therefore do not believe there is any evidence to support a material change to the form of full regulation.

No.	Questions		Feedback
		(ii) the lighter handed form of regulation should be based on: - the existing light regulation? - Part 23? - a strengthened Part 23 (i.e. the existing Part 23 plus the safeguards available under light regulation)? - another form of regulation?	A combination of light regulation and Part 23 is a logical basis for a lighter handed form of regulation going forward. This is because of the alignment between existing light regulation and Part 23 following the recent AEMC reforms to the NGR. Specifically the introduction of financial reporting for light regulation supports this approach. If the proposed lighter form of regulation is adopted (i.e. adopting aspects of the safeguards available under current light regulation), then we observe: - We have no specific concerns with the bundling prohibition. - In terms of preventing and hindering access, our business is about providing access - this is in our interests with no incentive to prevent or hinder access. - On inefficient price discrimination, we note that price discrimination can be efficient and can be a temporal issue depending on the timeframe over which it is being assessed for the benefits of existing and new customers. The existing safeguard against price discrimination includes a clause (NGL 136(2)) which allows for price discrimination which is conducive to efficient service provision. This should be retained across the new form. - On the ring fencing and associate contract provisions, these do not currently present a concern (i.e. with the definition of a related business being specific to producing, purchasing or selling natural gas). However, such provisions should be applied in a practical way to the lighter form of regulation. This should employ some added flexibility so as to allow for future investments (for example in innovation that may not fit neatly within the confines of natural gas pipeline services) that support gas customers' long-term interests.

No.	Questions	Feedback
18	Do you think there is a case for adopting a different lighter handed form of regulation for distribution pipelines? If so, do you think it should be based on: (a) the Default Price Path (DPP) approach used in New Zealand? (b) the negotiated settlements approach used in the US and Canada? (c) another form of regulation? Please explain your responses to these questions.	No. We consider that the alternatives proposed introduce a more costly and onerous role for the regulator in applying cost base pricing assessments, which can in effect be brought about through full regulation via the form of regulation factors. The need for the specific approaches outlined has not been established in Australia. For example, the DPP approach involves a periodic resetting of the DPP using the building block cost of supply. In addition to the effort of administering this periodic resetting, this would necessitate extensive regulatory work and stakeholder engagement to establish new AER/ERA guidelines equivalent to the New Zealand input methodologies (these do not currently exist for gas). Similarly, as NERA reports, in the US negotiated settlements regime, FERC determines a maximum reference rate structure for any pipeline based on that pipeline's costs. Canadian Group 1 pipelines also face cost-based pricing regulation for the reference rate. Both regimes require disclosure of rates negotiated between parties away from the reference rates. For the reasons we set out in response to question 23, we do not consider these disclosures are desirable for Australian light regulation. We also note that the existing light regulation category is well understood and has been applied in Australia for many years. We are not aware of any issue or concern with the application of light regulation on AGIG's Queensland distribution network to warrant material changes. We again also note that recent reforms strengthen the application of light regulation through increased information reporting.
19	Do you think additional measures are required in the regulatory framework to deal with dynamic market power? (A) If not, please explain why not. (B) If so: (a) Do you think the NGR should be amended to include: (i) an explicit right to interconnection to regulated pipelines? (ii) pricing principles for interconnections to regulated pipelines?	No *Interconnection* | Our experience does not highlight a problem with interconnections. We note that existing rules address this issue appropriately, specifically: 1) light/full regulation service providers are prohibited by the NGL from preventing or hindering access to pipeline services, which includes

No.	Questions		Feedback
		(b) Do you think the NGR should be amended to prohibit regulated pipelines from cross-subsidising new capacity by requiring incremental pricing to be used where the cost of an expansion or extension would otherwise result in the price of existing capacity increasing?	interconnection services (which would also apply to new lighter regulation if this safeguard is extended); and 2) the Part 23 arbitration provisions provide for an access determination to be made about interconnections. *Cross-subsidies* | The RIS's analysis of incremental versus rolled-in pricing is an oversimplification of the economics at play for pipelines and their existing foundation shippers versus new shippers. For example, foundation shippers may insist on rolled-in pricing when tendering for the initial pipeline so that they can benefit from subsequent loads and expansions, lessening their risk in (partly) underwriting the initial investment. Pipeline regulation should not impose a one size fits all approach to expansion pricing. Pipelines (and their foundation shippers) should be able to adopt efficient hybrids that protect the interests of both existing users and connecting parties such that all parties are no worse off from the connection and where benefits are available they can be shared in a manner that best ensures the expansion occurs. We believe rule 79 provisions for capital expenditure in full regulation pipelines paired with the regime for capital contributions adequately deal with the incremental pricing principle for these pipelines.
20	Are there any other problems with this aspect of the regulatory framework that have not been identified in this chapter? If so, please outline what they are and how you think they should be addressed.		No

Chapter 9: Information disclosure requirements

No.	Questions		Feedback
21	Do you think the limited information available on full regulation pipelines is hindering the ability of shippers to negotiate access to non-reference services or having any other adverse effects (see section 9.2.1)? (A) If not, please explain why not:		No. We provide extensive information on our reference services in regulatory disclosures and also provide extensive material to our customers seeking non-reference services to understand how these depart from, but are based on equivalent reference services. The AER/ERA's existing information gathering powers under section 48 of the NGL enable it to collect all the information contemplated in the consultation RIS, including for non-reference services, where this is necessary to perform its roles and support the NGO. We do not believe the constraint in footnote 196 of the Consultation RIS is reflective of the powers available for the functions the regulator applies under the NGR. For example, the AER/ERA can ask for the information it needs to apply the new reference service factors, to test if cost allocations are being complied with or to test if the pricing principles are being complied with for reference tariffs. The information relevant to such assessments is likely to be substantively the same as that disclosed under Part 23, and include information on non-reference services. The reference service proposal process should be given time to be fully implemented before contemplating widespread addition information disclosures. This information is therefore available to regulators to request through reference service proposal reviews, access arrangement reviews, regulatory information orders and regulatory information notices.
	(B) If so:	(a) How significant do you think this issue is?	

No.	Questions		Feedback
		(b) Do you think this issue should be addressed by requiring full regulation pipelines to publish the following information: (i) a description of all the reference and non-reference services offered by the pipeline (pipeline service information); (ii) the standing terms for non-reference services (i.e. the standard terms and conditions, the standing prices and methods used to calculate standing prices); (iii) information on the prices paid by shippers for each reference and non-reference service; (iv) historic demand information for each service offered by the pipeline; and (v) historic financial information for the pipeline on an annual basis in accordance with a financial reporting guideline published by the relevant regulator.	

No.	Questions		Feedback
22	Do you think the deficiencies that have been identified with the pricing methodologies and financial information published by service providers are limiting the reliance that shippers can place on this information and making them more susceptible to exercises of market power (see section 9.2.2)? (A) If not, please explain why not:		No. Part 23 – The RIS adopts a presumption that all services should be priced on actual costs and not some opportunity cost or market benefits assessment that would be appropriate where pipeline capacity needs to be directed to its highest valued use. Prices founded in legacy or market arrangements won't ever be 'directly replicable' to the extent the RIS seems to contemplate. That is consistent with the workable competition objective of Part 23. Light regulation – We believe that the information we currently disclose on our light regulation distribution pipelines is sufficient for shippers – this includes actual prices for all services. Because we already publish tariffs for each service on the light regulated distribution pipeline, a requirement to also publish a weighted average price is likely to cause confusion for no additional customer benefit. Full regulation – It is too soon to vary the pricing method disclosures for non-reference services when the AER/ERA hasn't yet applied its new reference service proposal rules to a full round of AA reviews. Further, because we already publish extensive pricing information, volume and revenue information for each regulated reference tariff in the annual tariff variation notice and accompanying model we consider it would cause confusion for no additional customer benefit. We also note the AER is currently implementing a new approach to RINs, specifically requiring reporting back to 2009, and developing new profitability reporting. These changes again demonstrate the need to consider existing processes and powers before embarking on more wide-ranging changes.
	(B) If so:	(a) How significant do you think this issue is?	

No.	Questions		Feedback
		(b) Do you think the deficiencies that have been identified with the pricing methodologies should be addressed by amending the NGR to require: (i) service providers to publish the inputs used to calculate standing prices? (iii) the relevant regulator to publish a guideline on what information should be contained in the pricing methodology?	
		(c) Do you think the deficiencies that have been identified with the financial information should be addressed by requiring service providers to report on the extent to which future costs are likely to be in line with historic costs, and historic information on contracted capacity and volumes transported?	We note that, full regulation pipelines are already required to report this information (e.g. NGR 72 requires historical and forecast demand and capacity utilisation, and forecast capital expenditure and operating expenditure). We believe the provision of this information should remain a key differentiating factor between lighter regulation and full regulation in the future. Therefore for the proposed lighter regulation no change is warranted. It is a non-trivial regulatory intervention to require disclosure of forward investment and expense forecasts on a lightly regulated asset. This should be considered a differentiating characteristic of full regulation versus the proposed lighter regulation and only mandated where the form of regulation test has been satisfied.

No.	Questions		Feedback
23	Do you think the deficiencies that have been identified with the weighted average prices are limiting the reliance that shippers can place on this information and making them more susceptible to exercises of market power (see section 9.2.2)? (A) If not, please explain why not.		Weighted average price (WAP) disclosures must be used with caution, but improvements can undoubtedly be made to the disclosures. Key service features like term and firmness help manage and allocate risk between the service provider and shippers. The reduction of such matters to WAPs can create unrealistic expectations of price for shippers who may not have shared risk with the service provider and thus efficiently benefited from prices that account for this. With regard to actual prices, we agree with the ACCC's concerns that consideration must be given to the impacts that publishing individual prices may have on: 1) competition in markets in which shippers compete (upstream and downstream markets); and 2) reduced incentives for service providers to offer prudent discounts to shippers. As noted above, we do believe the pricing information we currently disclose on our light regulation distribution pipelines is sufficient for shippers. Because we already publish tariffs for each service on the light regulated distribution pipeline, a requirement to also publish a weighted average price is likely cause confusion for no additional customer benefit. Given the above, only incremental improvements should be made to the existing information disclosures.
	(B) If so:	(a) How significant do you think this issue is?	
		(b) Do you think the deficiencies should be addressed by requiring service providers to report: (i) the individual prices (plus key terms and conditions) paid by each shipper rather than weighted average prices; or (ii) the minimum and maximum prices paid for each service in addition to the weighted average prices?	
		If you are a shipper, please explain what, if any effect, the disclosure of individual prices may have on competition in the markets in which you compete.	
		If you are a service provider, please explain what effect the disclosure of individual prices or the price range may have on your incentive to offer prudent discounts to shippers.	

No.	Questions		Feedback
24	Do you think the quality and reliability issues identified by the ACCC are limiting the reliance shippers can place on the information reported by service providers and making them more susceptible to exercises of market power (see section 9.2.3)? (A) If not, please explain why not.		We recognise the importance of quality information for our customers, and strive to always provide this. We acknowledge the difference in the information quality standard between the access information standard and the NGR. However, there are already audit review requirements attaching to the disclosures and these could be considered and reviewed before the standard is amended. We agree that it is appropriate to apply a consistent materiality standard, and accounting standards would be the appropriate threshold. The access information standard in the NGR could be amended to require service providers to update any information they are required to report as soon as practicable if the information is found to no longer be accurate, with materiality linked to accounting standards.
	(B) If so:	(c) How significant do you think this issue is?	
		(d) Do you think this issue should be addressed by implementing one or more of the following measures: (i) amending the NGR to provide for greater regulatory oversight of the information reported by service providers? (ii) amending the access information standard in the NGR to require information to be updated as soon as practicable if the information is found to no longer be accurate? (iii) increasing the penalties for breaches of the information disclosure obligations and the access information standard? (iv) the changes to the Financial Reporting Guideline identified by the ACCC and the Brattle Group (see Appendix B) should be implemented?	

No.	Questions	Feedback
25	Do you think the current approach to reporting information should be maintained, or do you think: (a) the NGR should be amended to require the relevant regulator to prepare a guideline that sets out where and how the information is to be disclosed on a service provider's website and to inform the regulator whenever changes are made? (b) links to all the information reported by service providers should be published in a single location (e.g. the regulator's website, the Bulletin Board or AEMC register)? (c) all the information reported by service providers should be made available through a single repository? Please explain your response to this question and set out how significant you think the accessibility issue is for shippers.	Further regulatory guidance, summary templates and weblinks are all reasonable measures to improve the usefulness of disclosures for customers. Any guidance and templates should be developed through consultation so that fit for purpose transmission and distribution differences can be accounted for.
26	Do you think, the current approach to reporting information should be maintained, or do you think the usability should be improved by requiring: (a) a summary tab to be included in the financial reporting template to provide a high level summary of the key financial and pricing information; and/or (b) a template to be developed to enable shippers to use the information published by service providers to calculate one or more the pricing benchmarks identified by the Brattle Group? Please explain your responses to these questions and set out how significant you think the usability issue is for shippers.	
27	Do you think the current exemptions from information disclosure under Part 23 should be retained, or do you think the scope should be amended to require exempt pipelines to publish a basic set of information?	It is important that the exemptions from information disclosure remain fit for purpose and continue to balance the costs of provision with the potential benefit for shippers. This seems particularly important for single shipper pipelines which should not be required to publish any more than basic pipeline information unless and until a second shipper requests access.
	If you think a basic set of information should be reported by all pipelines, what do you think it should include (e.g. pipeline service information, standing terms, the prices paid by other shippers, service availability and pipeline information)?	

No.	Questions	Feedback
28	Do you think the size threshold used for exemptions under Part 23 should be retained, or do you think it should be aligned with the 10 TJ/day nameplate rating used for the purposes of full and light regulation, the Bulletin Board and the capacity trading reforms?	The current size threshold should be retained. Nameplate rating is not a helpful threshold for distribution pipelines which do not have a single nameplate capacity. For transmission pipelines, utilisation information (throughput and contracted capacity) better reflects the market power of transmission pipelines than nameplate capacity and forms a more appropriate threshold.
29	Are there any other problems with the information disclosure requirements or exemptions that have not been identified in this chapter, or changes you think should be made to address the information deficiencies, accessibility, usability, reliability and quality issues outlined in section 9.2? If so, please explain what they are.	

Chapter 10: Negotiation frameworks and dispute resolution mechanisms

No.	Questions		Feedback
30	Do you think the differences in negotiation frameworks applying under Part 23 and full/light regulation is causing confusion, imposing unnecessary costs on negotiating parties or otherwise hindering the ability of shippers to negotiate access (see section 10.2.1)? (A) If not, please explain why not.		No, we do not consider the differences are imposing additional costs or hindering access negotiations. The differences remain appropriate given the additional role that full regulation plays in response to more substantial market power. The recent reforms to the rules for reference services also provide additional opportunities to understand and contrast reference and negotiated services. A regulatory-oriented arbitration is appropriate when there are fully regulated services available on the pipeline. It encourages shippers to properly engage in the AA review process, and the AER or ERA's consideration thereof, and avoids the risk of forum shopping by shippers between the regulatory process and a commercial arbitration option. For a full regulation pipelines, it remains appropriate for a shipper to be able to request information via the regulator for non-reference services. This ensures the regulator is aware of what services and information shippers seek when it comes to make its AA review and reference service decisions.
	(B) If so:	(a) How significant do you think this issue is?	
		(b) Do you think this issue should be addressed by adopting a single negotiation framework that would apply under all negotiate-arbitrate models that is based on: (i) the approach currently applied under full and light regulation (see Table 10.1)? (ii) the approach currently applied under Part 23 (see Table 10.1)? (iii) a hybrid of the two frameworks as described in section 10.3.1?	
31	Do you agree with the ACCC that the preliminary enquiry process in Part 23 could delay a shipper's access to arbitration if negotiations fail and also allow service providers to avoid the rules relating to access requests (including response times)? (A) If not, please explain why not.		Removing the preliminary enquiry step from Part 23 is not consistent with the workable competition objective of Part 23. Access seekers are notified of the right to use the formal process when any preliminary enquiry is made. In our experience this has not been an issue in practice. If this is proven to be a problem, a more measured step may be to require a potential shipper to acknowledge that it is aware of its rights to the formal process.

No.	Questions		Feedback
	(B) If so:	(e) How significant do you think this issue is?	
		(f) Do you think the preliminary enquiry process should be removed from Part 23?	

No.	Questions		Feedback
32	Do you agree that the credibility of the threat of arbitration is weaker for smaller shippers (see section 10.2.2)? (A) If not, please explain why not.		The key issue for smaller shippers is in reality their countervailing power, or lack thereof, and how this can transpire during access negotiations and potentially arbitration. This issue extends beyond pipelines to include the wider gas market. Small shipper transportation issues can often be conflated with issues regarding access to wholesale or retail gas, particularly where a small shipper is defined as one which does not have (or is unable to take) a position in upstream markets. We note the Gas Market Transparency RIS is addressing many of these issues. In this respect AGIG has proposed measures to improve transparency and ultimately liquidity in gas markets – specifically market making measures. Within this context there is little clarity as to what might constitute a smaller shipper. It is likely that the countervailing power of any particular sized shipper will vary from pipeline to pipeline, with further complexity added by company structures whereby a specific business entity may be part of a (much) larger corporate entity. These differences should be taken into account in determining how to improve the countervailing power of smaller shippers, and should be clarified before considering specific measures. Generally, most shippers on our assets are large industrial customers or retailers. We also note, small gas customers have rights and protections under *National Energy Consumer Law,* and further. Their interests are also increasingly represented by consumer advocacy groups and, rightly, given significant attention in the regulatory process. We believe any changes in this area should be considered after decisions in other areas of the RIS (e.g. disclosures, information accessibility and forms of regulation) and the Gas Market Transparency RIS have been arrived at to understand if there is a residual problem. We provide some suggestions for further work in response to 32(B)(c) below.
	(B) If so:	(a) How significant do you think this issue is?	

No.	Questions		Feedback
		(b) Do you think the position of smaller shippers would be improved by: (i) making it easier for pipelines to move from lighter to heavier handed forms of regulation as set out in Chapter 8? (ii) requiring individual prices or maximum and minimum prices to be reported by service providers rather than weighted average prices (see Table 9.2)? (iii) improving the usability and accessibility of information reported by service providers in the manner set out in Table 9.2?	

No.	Questions		Feedback
		(c) Do you think any of the following should occur to further strengthen the position of smaller shippers: (i) amend the cost provisions to prevent the dispute resolution body from awarding the service provider's costs against smaller shippers (relevant to full and light regulation only) and making smaller shippers pay more than half the dispute resolution body's costs? (ii) allow user groups to intervene in arbitral proceedings involving smaller shippers? (iii) give smaller shippers the option under Part 23 to have the dispute heard by the relevant regulatory dispute resolution body or a commercial arbitrator?	As above in response to the first part of question 32, we note that further work is essential to better define smaller shippers in arbitrations under the proposed lighter form of regulation. With the comments above in mind we make the following observations on the specific points: (i) We could support such an approach to costs provided there are appropriate protections to avoid vexatious claims arising and to ensure service providers do not incur costs until a claim is considered appropriate to proceed. (ii) We believe user groups could play a useful role in some arbitral proceedings, however note this should not be allowed to diverge from the commercial nature of the arbitration. Therefore, this should only be allowed if a party (the user or prospective user) to the proceeding requests a user group to participate in an arbitration. In such circumstances, the confidentiality of proceedings is critical and should apply to all parties, including user groups. (iii) We consider the differential between the dispute resolution body (for lighter regulation) and arbitrator (for full) to be essential in maintaining key differences between the proposed two forms of regulation. Further the difference is reflective of the lesser market power of lighter regulation pipelines relative to full regulation pipelines. Using the regulator as arbitrator for lighter regulation would create significant alignment between the two forms of regulation, and deter users from making use of the form of regulation test (in whatever form) to achieve more stringent regulatory outcomes.
		(jjj) If any of the measures outlined in (c) are implemented, how should 'smaller shipper' be defined? If you think it should be based on a size threshold, what threshold do you think should be adopted?	

No.	Questions		Feedback
33	Do you think:	(a) there are any other groups of shippers for whom the threat of arbitration may not be considered credible by service providers?	
		(b) there any other factors that may discourage shippers from threatening the use of arbitration?	
34	Do you agree that the limited guidance provided in the NGL/NGR on the matters to be considered by the dispute resolution body under full and light regulation as set out in section 10.2.3 are adversely affecting the efficiency, effectiveness and credibility of the dispute resolution mechanism applying to full and light regulation pipelines? (A) If not, please explain why not.		We support the AEMC's recommendation to: 'Amend the NGL to require the dispute resolution body to have regard to the NGO, the revenue and pricing principles, an applicable AA (where relevant), previous AAs or access determinations, pre-existing contractual rights and the price and revenue regulation provisions in Part 9 of the NGR.'
	(B) If so:	(a) How significant do you think this issue is?	

No.	Questions		Feedback
		(b) Do you think these deficiencies should be addressed by amending the NGL/NGR to: (i) require the dispute resolution body to have regard to the NGO, the revenue and pricing principles, an applicable AA (where relevant), previous AAs or access determinations, pre-existing contractual rights and the price and revenue regulation provisions in Part 9 of the NGR? (ii) require the existence of a dispute to be made public and to set out the process for joining parties? (iii) introduce a 50-day fast-track option for certain disputes under full regulation? (iv) specify the maximum period of time to be taken by the dispute resolution body to resolve a dispute (e.g. 8 months or 12 months)? (v) only require the access determination to be binding on a shipper if the shipper decides to enter into a contract that reflects the access determination and to prevent a shipper that decides not to enter into such a contract from seeking arbitration for the same or a substantially similar service for 12 months? (vi) require the dispute resolution body to publish the access determination, statement of reasons, relevant financial calculations and information provided in the course of the dispute (subject to the confidentiality provisions in the NGL)?	Any changes to the negotiation and arbitration arrangements applying to full regulation pipelines should not discourage shippers from participating in the periodic AER/ERA Access Arrangement review process or 'forum shop' between that process and arbitration.
35	Do you have any concerns with the Part 23 pricing principles (see Box 10.1?		
	If so:	(a) Please explain what your concerns are, how significant you think they are and what, if anything, you think could be done to address these concerns.	
		(b) Do you think these concerns will be addressed by making it easier for pipelines to move from lighter to heavier handed forms of regulation?	

No.	Questions		Feedback
		(c) Do you think there would be value in providing greater clarity in Part 23 about: (d) how prior regulatory decisions are to be accounted for by an arbitrator, in those cases where a pipeline has previously been subject to full regulation, particularly if it becomes easier to move between forms of regulation? (ii) shared costs are to be allocated between other assets that are operated by the service provider and between the services offered by the pipeline?	
36	Are there any other problems with the negotiation frameworks and dispute resolution mechanisms that have not been identified in this chapter, or changes you think should be made to address the issues identified in section 10.2? If so, please explain what they are.		

Chapter 11: Policy options

No.	Questions	Feedback
37	Of the four policy options that have been identified in Chapter 11, which option do you think should be implemented (i.e. Option 1, Option 2, Option 3 or Option 4) and why?	Our comments in response to all of the questions above, reflect some form of hybrid option using elements of the existing framework and Options 2 and 3. Below we have replicated Table 11.1 from the consultation RIS and added a column explaining our views where relevant.
38	If there are other policy options or refinements to these policy options that you think should be considered, please explain what they are, what they would involve and what the advantages, disadvantages, costs, benefits and risks are with these options.	
39	Do you agree with the advantages, disadvantages, costs, benefits and risks that have been identified for each option in sections 11.2-11.4? If not, please set out what other advantages, disadvantages, costs, benefits and/or risks that you think are associated with each option?	
40	If you think any of the policy options out in Chapter 11 could be implemented through alternative means (i.e. non-regulatory), please explain how you envisage this would work.	
41	If options 2, 3 or 4 were implemented and 'light regulation' removed, which of the following transitional arrangements do you think should be employed for the 5.5 pipelines that are currently subject to this form of regulation:	
	(a) grandfather the existing light regulation arrangements until an application is made for the form of regulation to change on the 5.5 pipelines?	In the first instance we support this option – it provides the greatest continuity with current arrangements while allowing for change as a result of an application for the form of regulation to change as would currently apply. Given the small number of pipelines affected, and the recent introduction of financial reporting for light regulation pipelines, the form of regulation applying to existing light regulation pipelines will be of no consequential difference to that applying under the new 'lighter' form of regulation.
	(b) deem all light regulation pipelines to be subject to full regulation?	
	(c) deem all light regulation pipelines to be subject to the new lighter handed form of regulation (i.e. the strengthened Part 23)?	While option (a) seems most appropriate for regulatory consistency and certainty, we recognise that the differences between existing light regulation and the proposed 'lighter' regulation are likely to be minimal.

		We note where an Opening Capital Base already exists this should be grandfathered into the disclosure obligations within the new lighter form of regulation. Such capital bases have been determined by regulators and have formed the basis on which investment decisions have been made and therefore should remain in place. We also hold the view that an approach to rolling forward the asset base utilised by the AER/ERA for full regulation pipelines should also be used for light regulation assets now, and if they transition to 'lighter' regulation. This approach is already in place within light regulation financial reporting (the AER's Financial reporting Guidelines for Light Regulation Pipelines introduced following the AEMC's recent reforms to the NGR) which would remain in place under option (a). The equivalent approach to capital bases should continue under any new arrangements.
	(d) require the decision making body to carry out an assessment of whether the pipelines should be subject to the heavier handed or lighter handed form of regulation using the form of regulation test?	
42	Are there any other transitional arrangements that need to be considered? If so, please outline what they are.	

Consultation RIS Table 0.1: Key Elements of Policy Options 1-4 with AGIG feedback

Problem		Option 1 (Status quo)	Option 2	Option 3	Option 4	AGIG submission
When should pipelines be regulated	**When to regulate**	Maintain the current approach, with: ▪ all pipelines providing 3rd party access subject to some form of regulation ▪ a mechanism available to require those not providing 3rd party access to do so.	Amend framework to allow pipelines providing 3rd party access to obtain an exemption from regulation (but not from the basic information disclosure requirements – see below) if: • the service provider can demonstrate the pipeline does not have substantial market power (this exemption could be revoked if conditions change and the service provider can no longer demonstrate it does not have market power)	Maintain the current approach, with: ▪ all pipelines providing 3rd party access subject to some form of regulation ▪ a mechanism available to require those not providing 3rd party access to do so if they pass the test for regulation.	Require all pipelines to provide 3rd party access on a non-discriminatory basis.	Option 2

Problem		Option 1 (Status quo)	Option 2	Option 3	Option 4	AGIG submission
			• the pipeline has obtained a 15-year greenfield exemption. Maintain the current approach for seeking access to pipelines that are not providing 3rd party access.			
	Test for regulation	Retain the existing coverage test.	Replace the coverage test with the hybrid market power-NGO test that would require the decision-making body to be satisfied (see Box 7.6): ▪ the pipeline has substantial market power ▪ regulation will or is likely to contribute to the achievement of the NGO.		n.a.	Option 2 & 3. Coverage test becomes an exemption test.
	Governance arrangements	Retain the existing governance arrangements (NCC/Minister).	Accord a single organisation (either the ACCC or the AER/ERA) responsibility for deciding when a pipeline should be regulated or exempt from regulation.		n.a.	Option 1. Retain the existing governance arrangements (NCC/Minister).
Forms of regulation and the movement between the alternative forms	**Forms of regulation**	Retain the existing forms of regulation (i.e. full, light and Part 23).	Adopt the following forms of regulation: • Heavier handed regulation - based on the existing full regulation approach (i.e. negotiate-arbitrate with reference tariffs set by the relevant regulator and a regulatory-oriented dispute resolution mechanism) • Lighter handed regulation – based on a strengthened Part 23 (i.e. negotiate-arbitrate with a commercially-oriented dispute resolution mechanism plus the safeguards currently available under light regulation).		Adopt the following forms of regulation: ▪ Heavier handed form of regulation based on direct price/revenue control ▪ Lighter handed regulation – based on a strengthened Part 23. All pipelines would also be required to: ▪ comply with interconnection principles that would be set out in the NGR ▪ use incremental pricing where the cost of new capacity would otherwise result in the price of existing capacity increasing.	Options 2 & 3. Adopt the following forms of regulation: • Heavier handed regulation - based on the existing full regulation approach (i.e. negotiate-arbitrate with reference tariffs set by the relevant regulator and a regulatory-oriented dispute resolution mechanism) • Lighter handed regulation – based on a strengthened Part 23 (i.e. negotiate-arbitrate within commercial arbitration mechanism plus the safeguards currently available under light regulation where necessary).
	Monitoring and referral functions	Retain the existing approach (i.e. the relevant regulator can monitor light regulation negotiations only and is treated like any other interested person in terms of being able to apply for a form of regulation assessment).		Require the relevant regulator to monitor the behaviour of service providers (e.g. by monitoring service providers' prices, service quality, financial information, the outcome of access negotiations and, where relevant, dealings with associates and ring fencing arrangements) and refer pipelines for a form of regulation assessment if it suspects market power is being exercised.		Options 1 & 2. Retain the existing approach (i.e. the relevant regulator can monitor light regulation negotiations only and is treated like any other interested person in terms of being able to apply for a form of regulation assessment).
	Form of regulation test	Retain existing structure of tests, with coverage test acting as a gateway to full and light regulation.	Remove the coverage test and use the existing form of the regulation test for form of regulation decisions.			Form of regulation test applies to move between lighter and heavier forms of regulation.

Problem		Option 1 (Status quo)	Option 2	Option 3	Option 4	AGIG submission
	Governance arrangements	Retain the exiting governance arrangements (NCC).	Accord a single organisation (either the ACCC or the AER/ERA) responsibility for making form of regulation decisions.			Option 1. Retain the exisiting governance arrangements (NCC).
Information disclosure requirements	**Information to be disclosed by <u>non-exempt</u> service providers**	Retain the existing information disclosure requirements across the forms of regulation.	All non-exempt service providers to publish: ▪ pipeline information, pipeline service information and service availability information ▪ standing terms (i.e. standard terms and conditions, standing prices and the method used to calculate standing prices) ▪ information on the prices paid by other shippers in the form set out in the next row ▪ historic financial information and historic demand (service usage) information.			We recognise the importance of quality information for our customers, and strive to always provide this. We note our comments above in response to the chapter 9 questions.
			Information on the prices paid by other shippers to be based on the weighted average price and the minimum and maximum prices paid for each service.	Information on the prices paid by other shippers to be based on the individual prices (including key terms and conditions) paid by shippers.		
			n.a.	The disclosure requirements would be amended in the manner set out in **Error! Reference source not found.** to address the information deficiencies that have been identified with the pricing methodologies and financial information and to improve the quality, reliability, accessibility and usability of the information.		
	Exemptions from the disclosure requirements and information to be disclosed by <u>exempt</u> service providers	Retain the existing exemptions from disclosure under Part 23 and light regulation.	▪ No exemptions from the disclosure requirements would be available for regulated pipelines. ▪ Pipelines that obtain an exemption from regulation (see above) but are providing 3rd party access would still be required to publish the basic information set out in **Error! Reference source not found.**.	Exemptions from the requirement to publish financial information would be available to: ▪ single shipper pipelines ▪ small pipelines with a nameplate capacity less than 10 TJ/day These pipelines would still, however, be required to publish the basic information set out in Box 11.1.	Exemptions from the requirement to publish financial information would be available to: ▪ pipelines with no 3rd party shippers ▪ single shipper pipelines ▪ small pipelines with a nameplate capacity less than 10 TJ/day. These pipelines would still, however, be required to publish the basic information set out in Box 11.1. In the case of pipelines that have no 3rd party shippers, the obligation to publish basic information would only commence once a prospective shipper seeks access.	Option 3. Provided that the small pipeline threshold remains based on usage rather than capacity.
Negotiation frameworks and dispute resolution mechanism*	**Negotiation framework**	Retain the existing negotiation frameworks.	Implement a single negotiation framework that applies to both the lighter and heavier handed forms of regulation based on the hybrid model (see Box 11.2).		Use negotiation framework in Box 11.2 for the lighter handed form of regulation.	Option 1. Retain the existing negotiation frameworks because it is important to have a differentiated model for full regulation pipelines.
	Threat of arbitration for small shippers	Retain the existing arrangements (i.e. no specific measures to	Strengthen the credibility of the threat of arbitration for small shippers by changing the dispute related cost provisions.	Strengthen the credibility of the threat of arbitration for smaller shippers on pipelines subject to the negotiate-arbitrate model by: ▪ changing the dispute related cost provisions		A subset of option 3. As described in response to 32B above, we could support the proposed cost-related provisions and the participation of user groups. However, further work

Problem		Option 1 (Status quo)	Option 2	Option 3	Option 4	AGIG submission
		strengthen the threat for smaller shippers).		▪ allowing user bodies to be joined to arbitral proceedings involving smaller shippers ▪ allowing the smaller shipper to elect to have the dispute heard by the relevant regulator rather than a commercial arbitrator.		is needed on the definition of a smaller shipper, preventing vexatious claims (and costs being incurred as a result) and the potential for gas customers to be represented.
	Dispute resolution mechanisms	Retain the existing dispute resolution mechanisms.	Maintain the Part 23 dispute resolution mechanism for the lighter handed regulation and the full regulation mechanism for the heavier handed regulation.		Maintain the Part 23 dispute resolution mechanism for lighter handed regulation.	Options 2 & 3. Maintain the Part 23 dispute resolution mechanism for the lighter handed regulation and the full regulation mechanism for the heavier handed regulation.
			Implement the amendments to full regulation dispute resolution mechanism set out in **Error! Reference source not found.**.		n.a.	We support a sub-set of options 2 & 3. 1) require the dispute resolution body to have regard to the NGO, the revenue and pricing principles, the applicable AA, previous AAs/determinations, pre-existing contractual rights and applicable provisions in Part 9 of the NGR when making an access determination; 2) provide additional guidance on the role of the dispute resolution expert and the process for appointing and using the evidence of such an expert; and 3) better facilitate joint dispute hearings.

Chapter 12: Regulatory impact assessment

No.	Questions		Feedback
43	Do you agree with the risks that have been identified for: (a) the status quo in Tables A.1 and A.2? (b) identified for Options 2-4 in Tables A.3 and A.4? If not, please explain why not. If you think there are other risks and treatments that should be accounted for, please explain what they are.		We note that the status quo risk rating of severe, suggests a widespread problem and is highly focussed on issues limited to transmission pipelines. While these risks flow through to customers on distribution networks, we note that the risk associated with distribution pipelines overall and fully regulated distribution pipelines is significantly lower. Furthermore, many pipeline service providers do not engage in behaviours that would lead to a severe risk rating. We note that service providers can and do adopt approaches which go beyond regulatory arrangements to address potential risks for customers. AGIG's report to the Energy Charter provides more detail on our commitments to customers across all of our assets.[1] The actions outlined in that report can and do reduce the actual risk of the status quo. We would be happy to discuss these arrangements.
44	Do you:	(a) agree with the categories of costs and benefit categories set out in Table 12.1, or are there other categories that you think should be considered in the CBA?	We note the benefits in terms of reduced regulatory uncertainty are considered, but the potential costs are not. The potential for reduced investment in pipelines as a result of regulatory uncertainty should also be considered. This is particularly important given the significant changes that have already occurred in recent years.
		(b) have any information on the costs and benefits outlined in Table 12.1? If so, please elaborate on the source and quantum of those costs and benefits.	
		(c) agree with the proposed discount rate and appraisal periods to be used for the central case and sensitivity testing? If not, please explain why.	
		(d) think there are other input variables that should be subject to a sensitivity analysis? If so, please explain what those inputs are.	
45	Do you have any information on the compliance costs associated with the policy options set out in Chapter 11 that could be used for the CRBM (Commonwealth Regulatory Burden Measure)? If so, please elaborate on the source and quantum of the costs.		While it is difficult to estimate the costs of the specific measures proposed in this RIS, the costs incurred in full regulation access arrangement review can provide a useful basis for further comparison. External costs incurred by AGIG for our full regulation access arrangement reviews range between $1 million to $2 million. The costs vary depending on the nature of each access

[1] https://www.agig.com.au/the-energy-charter

No.	Questions	Feedback
		arrangement – including network specific issues that need to be considered at that time and the extent stakeholder engagement required. It is important to note these costs do not include our internal costs associated with the review, including resourcing the regulatory team. The costs also do not include those incurred by the regulator (both internal and external) in reviewing our access arrangement proposals.
46	What, if any effect, do you think the policy options summarised in Chapter 11 will have on competition in the gas market and, in particular on:	
	(a) the relative bargaining power of shippers and service providers?	
	(b) the search and transaction costs associated with contracting pipeline services?	
	(e) the potential for collusive behaviour in competitive segments of the market?	
	(f) changes to any barriers to entry that could promote or deter market entry?	
	(g) the long-term outlook for investment in the sector?	