

19 December 2019

Gas and Governance Branch
Department of the Environment and Energy
GPO Box 787
Canberra ACT 2601

To who it may concern,

Submission to the Consultation RIS – Gas Pipeline Regulation Reform

1. Chemistry Australia welcomes the opportunity to provide this submission on the Consultation RIS – Gas Pipeline Regulation Reform.
2. Chemistry Australia is the peak national body representing the chemistry industry. Chemistry Australia members include chemicals manufacturers, importers and distributors, logistics and supply chain partners, raw material suppliers, plastics fabricators and compounders, recyclers, service providers to the sector, leading research organisations and the chemistry and chemical engineering schools of leading Australian universities.
3. The chemistry industry is one of the largest manufacturing sectors in Australia. Our industry employs more than 61,500 people, with every job creating five more in related supply chains. The industry contributes \$11.6 billion to gross domestic product, and supplies inputs to 108 of Australia's 114 industries
4. Our members and their broad customer base are major industrial, base load gas consumers for chemical feedstock and process energy use. Nationally chemistry feedstock alone accounts for 10% of domestic demand. A recent study by Acil Allen consulting¹ reported that the chemistry sector is the highest gas value-adding sector of the economy at \$286M/PJ .
5. The Australian economy needs to be globally competitive and an attractive place to invest in manufacturing that uses gas for chemical feedstocks and as a source of fuel and energy. The characteristics of the Australian gas transmission infrastructure, including its pipeline network, and the regulations that help manage its operation, need to stand up to global scrutiny in order to attract investment from companies seeking to add value to Australia's gas resources. The Australian domestic gas market must also be globally competitive to help achieve this.
6. In its submission to the 2017 Gas Pipeline Information Disclosure and Arbitration Framework Implementation Options Paper, Chemistry Australia noted:
 - a. It supports the intent of the recommendations to enhance information disclosure and to implement a system of binding arbitration, should this be required
 - b. It will, however, be critical that the recommendations materially improve the ability for gas consumers / shippers to operate in what is universally agreed to be a more dynamic and complex market place**
 - c. This includes providing a suitable framework for a wide variety of organisation types and

¹ "Chemical Industry Economic Contribution Analysis" Acil Allen Consulting, August 2019

sizes, many of whom may engage in the market differently in the future than in the past, and for which the current market was not designed to facilitate and support. The new horizon being faced may see gas users broadening their roles and places in the market, using different access models and arrangements to deal with the complexities of access and security, price discovery and risk management.

7. Chemistry Australia notes the ongoing shift for new entrants to the domestic gas market, consistent with the need for more gas supplies from more suppliers to help alleviate the East Coast Gas Crisis. This includes users taking upstream exploration positions as well as becoming market participants with existing suppliers. The result is more, and more varied, types of parties requiring pipeline access in what in many ways is a monopolistic infrastructure.
8. The feedback from the market, including the analysis by the ACCC underpinning the need for this consultation RIS into improved gas pipeline regulation, evidences the fact that further improvements need to be made in order for pipelines to materially meet the intent of the National Gas Objective that are in the long-term interests of consumers.
9. Chemistry Australia recognises that this will require the pipeline industry to also be competitive in attracting the investment needed to deliver gas to users. Chemistry Australia notes:
 - a. that Australian pipelines have some domestically unique characteristics including market size, numbers of shippers and other customers, geography and other factors
 - b. however, the principles of how pipelines are operated for the long-term benefit of consumers remain the same with these characteristics in place
 - c. the welcome and proactive initiative of some pipeline operators to be responsive to the new market dynamics and being innovative in providing new services and options for shippers
 - d. the open stance and willingness of the industry to engage with shippers and other stakeholders
 - e. the type and extent of gas market regulation that has occurred within the pipeline industry in order for the Australian market to be a globally competitive place to invest in gas-based manufacturing.
10. That being said, for Australian gas users to be as globally competitive as they can be, all aspects of the market place they operate in as consumers, must enable and focus on this potential. This includes the enabling capability of the chemistry sector to continue supplying high value domestic inputs to other key parts of the economy and halt the current decline of Australia's economic complexity. For this reason, Chemistry Australia supports improved regulation that balances the competitiveness of gas users with the capability of gas pipelines to enable Australia's overall economic sustainability through its use of gas as both a feedstock and fuel source.
11. Chemistry Australia supports the ACCC proposed changes to the coverage test to assess whether a pipeline should be subject to full regulation.
12. Chemistry Australia recognises the benefit of applying the ACCC's proposed coverage test that better reflects the current gas market and simplifies the current myriad of regulatory rules by expanding the negotiate arbitrate model in a way that gives consumers confidence that they will not be at a disadvantage in the negotiation process. However, any support for this approach requires consumers to have confidence that the outcome will meet the NGO in a more efficient manner than extending full regulation to all pipelines. It requires service providers to responsibly undertake their side of the regulatory bargain with consumers and the regulator. It requires consumers to have confidence that service providers are playing "fair". The disappointing results of the recent ACCC Part 23 audit and the Brattle study for this RIS suggest that, while some service providers are "doing the right thing", others are not. The latter impact on the overall reputation of the sector.

13. If the net impact on users, already challenged by gas supply and price, is negative then Chemistry Australia recognises that full regulation remains the only option available to meet obligations under the NGL.
14. Chemistry Australia supports pricing principals based on the asset owner only recovering capital once ie initial and sustaining capex. This is simply a reflection of what would occur in a workable and competitive market. This approach still allows a service provider to earn a rate of return on that capital that varies by the market assessment of risk, especially in the case of greenfield pipelines. We need to ensure that regulation does not deter new investment designed to efficiently bring new sources of gas to market – so we support continuation of the Competitive Tender Process and the options of these pipelines having a derogation from Part 23 for the greenfield exemption period of 15 years if they meet Rules criteria in the competitive tender process.
15. In summary of the policy options proposed by the RIS, Chemistry Australia does not support the status quo option as outlined. Rather we support a range of options 2,3 and 4 as noted in the attached feedback template, including the marked-up policy options table.
16. In addition to the policy options proposed, Chemistry Australia recommends that ethane be covered by the NGL and its provisions for arbitration. For ethane users to access the AER Part 23 Arbitration framework process, the following needs to occur as part of the COAG reforms to improve gas pipeline regulation:
 - National Gas Law / Rules to be broadened to include Ethane. Ethane users are subject to the competition and information dynamics of the natural gas market, yet are not afforded the same balanced regulatory provisions as are natural gas / methane users
 - Broaden access to the Part 23 arbitration framework to enable access for ethane pipelines such that they are considered as non-scheme pipelines for the purposes of Part 23
 - Eliminate exemption categories that currently enable exemption from Part 23 on the basis that the pipeline does not provide third party access and/or are a single shipper pipeline.

We would be pleased to provide any additional information or clarification.

Kind regards,



Peter Bury
Director – Strategy, Energy and Research

Pipeline Regulation Consultation Regulation Impact Statement – Stakeholder feedback template

Submission from Chemistry Australia

Our response in the template is in two parts:

1. Summary of our preferred Option in each of the 4 areas of reform focus – drawing on the summary in pages viii-ix in the RIS consultation document
2. Provision of specific answers in the questions asked in the template – that serve to provide background for our choices in 1.

Table 2: Policy Options 1-4

Problem		Option 1 (Status quo)	Option 2	Option 3	Option 4
<p>When should pipelines be regulated</p>	<p>When to regulate</p> <p>Maintain the current approach, with:</p> <ul style="list-style-type: none"> 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. 	<p>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:</p> <ul style="list-style-type: none"> 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) the pipeline has obtained a 15-year greenfield exemption. <p>Maintain the current approach for seeking access to pipelines that are not providing 3rd party access.</p>	<p>Maintain the current approach, with:</p> <ul style="list-style-type: none"> 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. 	<p>Require <u>all</u> pipelines to provide 3rd party access on a non-discriminatory basis.</p>	
	<p>Test for regulation</p>	<p>Retain the existing coverage test.</p>	<p>Replace the coverage test with the hybrid market power-NGO test that would require the decision-making body to be satisfied (see Error! Reference source not found.):</p> <ul style="list-style-type: none"> the pipeline has substantial market power regulation will or is likely to contribute to the achievement of the NGO. 	<p>n.a.</p>	
	<p>Governance arrangements</p>	<p>Retain the existing governance arrangements (NCC/Minister).</p>	<p>Accord a single organisation (either the ACCC or the AER/ERA) responsibility for deciding when a pipeline should be regulated or exempt from regulation.</p>	<p>n.a.</p>	
<p>Forms of regulation and the movement between the alternative forms</p>	<p>Forms of regulation</p> <p>Retain the existing forms of regulation (i.e. full, light and Part 23).</p>	<p>Adopt the following forms of regulation:</p> <ul style="list-style-type: none"> 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). 	<p>Adopt the following forms of regulation:</p> <ul style="list-style-type: none"> Heavier handed form of regulation based on direct price/revenue control Lighter handed regulation – based on a strengthened Part 23. <p>All pipelines would also be required to:</p> <ul style="list-style-type: none"> 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 		
	<p>Monitoring and referral functions</p>	<p>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).</p>	<p>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.</p>		
	<p>Form of regulation test</p>	<p>Retain existing structure of tests, with coverage test acting as a gateway to full and light regulation.</p>	<p>Remove the coverage test and use the existing form of the regulation test for form of regulation decisions.</p>		
	<p>Governance arrangements</p>	<p>Retain the exiting governance arrangements (NCC).</p>	<p>Accord a single organisation (either the ACCC or the AER/ERA) responsibility for making form of regulation decisions. Ensuring they have and maintain the capability and expertise required.</p>		

Problem		Option 1 (Status quo)	Option 2	Option 3	Option 4
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.	<p>All non-exempt service providers to publish:</p> <ul style="list-style-type: none"> 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. <p>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.</p> <p>n.a.</p>	Information on the prices paid by other shippers to be based on the individual prices (including key terms and conditions) paid by shippers.	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.	<ul style="list-style-type: none"> 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. 	<p>Exemptions from the requirement to publish financial information would be available to:</p> <ul style="list-style-type: none"> single shipper pipelines small pipelines with a nameplate capacity less than 10 TJ/day <p>These pipelines would still, however, be required to publish the basic information set out in Box 11.1.</p>	<p>Exemptions from the requirement to publish financial information would be available to:</p> <ul style="list-style-type: none"> pipelines with no 3rd party shippers single shipper pipelines small pipelines with a nameplate capacity less than 10 TJ/day. <p>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.</p>
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.
	Threat of arbitration for small shippers	Retain the existing arrangements (i.e. no specific measures to strengthen the threat for smaller shippers).	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: <ul style="list-style-type: none"> changing the dispute related cost provisions 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. 	
	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.	Implement the amendments to full regulation dispute resolution mechanism set out in Error! Reference source not found.	Maintain the Part 23 dispute resolution mechanism for lighter handed regulation.
					n.a.

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:	
	(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.	<ul style="list-style-type: none"> • Yes
	(b) the Brattle Group in its review of the financial information (see section 5.2)? If not, please explain why not.	<ul style="list-style-type: none"> • Yes
	(c) the ACCC in its review of the operation of Part 23 (see section 5.3)? If not, please explain why not.	<ul style="list-style-type: none"> • Yes
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)?	<ul style="list-style-type: none"> • See answers to questions below and covering letter

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?	<ul style="list-style-type: none"> • See answers to questions below and covering letter
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.	<ul style="list-style-type: none"> • Yes – we comment below on our support for removing the information disclosure exemptions pipelines of >10TJ/day • We would refer you to the submission made by the EUAA member CQMS Razer to the Energy Charter Accountability Panel at https://theenergycharterpanel.com.au/wp-content/uploads/2019/11/CQMS-Razer-2019-Public-Submission.pdf
6	Are there any other objectives that you think the Energy Council should be pursuing? If so, please set out what they are.	<p>Yes. In addition to the policy options proposed, Chemistry Australia recommends that in order for ethane users to access the AER Part 23 Arbitration framework process, the following needs to occur as part of the COAG reforms to improve gas pipeline regulation:</p> <ul style="list-style-type: none"> • National Gas Law / Rules to be broadened to include Ethane. Ethane users are subject to the competition and information dynamics of the natural gas market yet are not afforded the same balanced regulatory provisions as are methane users. • We note there may also be a need to review the breadth given the current development of Hydrogen and its use in gas pipelines. • Broaden access to the Part 23 arbitration framework to enable access for ethane pipelines such that they are considered as non-scheme pipelines for the purposes of Part 23 • Eliminate exemption categories that currently enable exemption from Part 23 on the basis that the pipeline does not provide third party access and/or are a single shipper pipeline.

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

No.	Questions	Feedback
7	<p>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?</p>	<ul style="list-style-type: none"> No. We do not think that the introduction of Part 23 will result in “over-regulation” Part 23 is about providing information that should already be available within the pipeline operator’s organisation assuming that organisation is comfortable with the Energy Council objectives on pp 49-50. We support the current approach that for all <u>existing</u> pipelines: <ul style="list-style-type: none"> Those providing 3rd party should be subject to some form of regulation A mechanism be available to require those not providing 3rd party access to do so if they pass the test for regulation We also think that there should be safeguards against one party eg a gas retailer, purchasing all the capacity on a pipeline and then access only being possible through that one party
	(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: <ul style="list-style-type: none"> (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? 	
	(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)?	<ul style="list-style-type: none"> Yes – we support the ACCC’s proposed coverage test
	(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?	<ul style="list-style-type: none"> The onus of proof should lie with the service provider as used in the US to address the information asymmetry problem
(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?	<ul style="list-style-type: none"> We agree that "...the effect on investment incentives is likely to be relatively low given the light handed nature of Part 23" given the ACCC's findings in its July 2019 Interim Report (p.54) See answer to Q7 on what should apply
	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?	
9.	(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?	
9.	(iii) another means?	
	Why do you think:	<ul style="list-style-type: none"> As the RIS notes, the greenfield exemption has only been used by LNG projects in eastern Australia. Given these pipelines would have been built anyway even in the absence of the greenfield provisions, we wonder about the benefit of its retention. We think that the CTP provisions should be retained eg they resulted in Jemena building of the NGP which provides an important additional source of gas for the east coast market.
	(a) the greenfield exemptions in the NGL have not been used by a greater number of service providers?	
10	(b) the CTP provisions in the NGR have not been used by a greater number of shippers or governments?	
	Do you think the greenfield exemptions and CTP provisions should be retained in the regulatory framework, or do you think:	<ul style="list-style-type: none"> See answer to Q7
	(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	<ul style="list-style-type: none"> See answer to Q7

	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	<p>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)?</p> <p>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.</p>	<ul style="list-style-type: none"> • See answer to Q 7 • We do not think the current coverage test is relevant for determining future third party access as it could lead to under-regulation; the current coverage test is time consuming, incurs significant regulatory costs and do not promote the AGO as shown in Box 7.3 (p. 56)
12	<p>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:</p> <p>(a) the coverage test;</p> <p>(b) an equivalent test to the recently amended Part IIIA test;</p> <p>(c) an NGO-style test; or</p> <p>(d) a combined market power-NGO test?</p>	<ul style="list-style-type: none"> • We do not support continuation of the coverage test – it is not fit for purpose. We support Option 4 as set out by the ACCC in its 2016 Report – combined market power-NGO test
	Do you think the onus of demonstrating the test is met (or not met) should sit with the decision-maker or service provider?	
13	<p>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)?</p>	<ul style="list-style-type: none"> • We agree with the limitations of the NCC performing the governance function and support the ACCC having that role. • We do not see a governance issue by having the ACCC assess whether regulation is required and what form it should take, and then AER/ERA being the economic regulator
	<p>If you think the current arrangements could give rise to unnecessary costs and delays:</p> <ul style="list-style-type: none"> • How significant do you think this issue is and what are the consequences likely to be? 	

	<ul style="list-style-type: none"> Do you think this issue should be addressed by according a single organisation responsibility for making this decision? If not, please explain why not. 							
	<table border="1"> <tr> <td>If so:</td> <td>(i) What expertise do you think this organisation should have?</td> <td></td> </tr> <tr> <td></td> <td> (ii) Which of the following organisations do you think should be responsible for making this decision: <ul style="list-style-type: none"> - the ACCC? - the relevant regulator (i.e. the AER or the ERA in Western Australia)?the NCC? - another organisation? </td> <td></td> </tr> </table>	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: <ul style="list-style-type: none"> - the ACCC? - the relevant regulator (i.e. the AER or the ERA in Western Australia)?the NCC? - another organisation? 		
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: <ul style="list-style-type: none"> - 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)?	<ul style="list-style-type: none"> See previous answer. 						
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.	<ul style="list-style-type: none"> No further comment. 						

Chapter 8: Forms of regulation

No.	Questions	Feedback
16	<p>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.</p>	<ul style="list-style-type: none"> • Yes there is a risk of under-regulation – because the current coverage test is not fit for purpose in the current gas market • In principle, the negotiate-arbitrate model assumes shippers have a level of countervailing power provided by the information disclosure; it also assumes that shippers have the resources to engage in the negotiation/arbitration process • This means: <ul style="list-style-type: none"> ○ Comprehensive information disclosure with an external auditor to ensure compliance ○ Greater prescription in the arbitration framework eg proscribing the method of asset valuation to be used by the arbitrator which is independently audited by the AER - some respondents to the OGW survey supported this and so do our members; this serves to reduce arbitration costs and information asymmetry <ul style="list-style-type: none"> • This will increase the chances of getting agreement without arbitration because the service provider is unable to game the asset valuation process during arbitration ○ Making it easier to get a pipeline changed to the fully regulated without having to go through a complicated, costly and ultimately inappropriate coverage test ○ Expand the services regulated under the full regulation model • We recognise the improvement flowing from applying the NGL s122 test, but this is best done in the context of a choice between Part 23 and full regulation (as noted below in the answer to the next question we support removal of the lightly regulated category) <ul style="list-style-type: none"> ○ With the onus of proof sitting with the service provider to argue why the pipeline should not move from Part 23 to fully regulated ○ There is a role for the AER in monitoring the behaviour of service providers
	<p>(B) If so: (a) How significant do you think this issue is?</p>	

No.	Questions	Feedback
	<p>(b) Do you think the coverage test should be removed and a single test used for moving between the alternative forms of regulation?</p> <p>If so, do you think the single test should be based on:</p> <p>(i) the form of regulation test in s. 122 of the NGL (see section 3.1.1)?</p> <p>(ii) another test?</p>	
	<p>(c) Do you think:</p> <p>(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</p> <p>(ii) the onus should be on the service provider to demonstrate why a heavier handed form of regulation is not required?</p>	
	<p>(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?</p>	

No.	Questions	Feedback
17	<p>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?</p> <ul style="list-style-type: none"> If not, please explain why not. 	<ul style="list-style-type: none"> With the move to apply Part 23 to lightly regulated pipelines, we see no benefit in retaining the lightly regulated category; it is not worth the regulatory cost Lightly regulated pipelines would become Part 23 pipelines dependent on: <ul style="list-style-type: none"> the implementation of the ACCC recommendations on improving the Part 23 disclosure guidelines, including explicit direction on the methodology for asset valuation, regular monitoring and publishing by the ACCC of the market behaviour of service providers, and the ACCC or shippers being able to initiate the process to review (based on ACCC information) whether the pipeline should move to full regulation based on observance of that market behaviour; with the onus of proof on pipeline operators to argue against a move to full regulation The aim is to essentially give pipelines a second chance to make the Part 23 work given the ACCC and Brattle reports suggested some, at least, either were confused about how the information disclosure guideline was meant to work or sought to game the process; it is designed to constrain the exercise of market power against smaller/unsophisticated customers in a lower cost way than full regulation; pipeline service providers will have a stronger incentive to make it work given the treat of full regulation. We comment on this more in the next section
	<ul style="list-style-type: none"> If so: <ul style="list-style-type: none"> (a) How significant do you think this issue is? (b) If the number of forms of regulation was reduced to two, do you think: <ul style="list-style-type: none"> (i) the heavier handed form of regulation should be based on: <ul style="list-style-type: none"> full regulation (i.e. negotiate-arbitrate with reference tariffs)? direct price (revenue) control? another form of regulation? 	<ul style="list-style-type: none"> Full regulation

No.	Questions	Feedback
	<p>(ii) the lighter handed form of regulation should be based on:</p> <ul style="list-style-type: none"> - 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? 	
18	<p>Do you think there is a case for adopting a different lighter handed form of regulation for distribution pipelines?</p> <p>If so, do you think it should be based on:</p> <p>(a) the Default Price Path (DPP) approach used in New Zealand?</p> <p>(b) the negotiated settlements approach used in the US and Canada?</p> <p>(c) another form of regulation?</p> <p>Please explain your responses to these questions.</p>	<ul style="list-style-type: none"> • No. • We understand that some service providers wish to retain light regulation of distribution pipelines, but we are unsure of the rationale.
19	<p>Do you think additional measures are required in the regulatory framework to deal with dynamic market power?</p> <ul style="list-style-type: none"> • If not, please explain why not. 	<ul style="list-style-type: none"> • Yes, additional measures are required • We agree with amending the NGR to provide for an explicit right to interconnection – following the FERC’s policy in the US so it is a proactive rather than reactive mechanism
	<p>(a) Do you think the NGR should be amended to include:</p>	
	<ul style="list-style-type: none"> • If <p>(i) an explicit right to interconnection to regulated pipelines?</p>	<ul style="list-style-type: none"> • Yes
	<ul style="list-style-type: none"> • If SO: <p>(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?</p>	<ul style="list-style-type: none"> • Yes
20	<p>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.</p>	<ul style="list-style-type: none"> • No further comments.

Chapter 9: Information disclosure requirements

No.	Questions	Feedback
	<p>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)?</p> <ul style="list-style-type: none"> If not, please explain why not: 	<ul style="list-style-type: none"> Yes. The current information requirements set out in Table 9.1 are indicative of the inefficiency of and consumer confusion around the current regime – both to pipeline operators and consumers, but particularly to consumers who, unlike the operators are not involved in these matters on a day to day basis as their core business; we agree with the problems outline on p. 92 arising from this complexity and the impact on consumers: <ul style="list-style-type: none"> the information asymmetry ability of information disclosure (or lack thereof or confusion around what the disclosure means) to increase the ability of service providers to exercise market power
21	<p>(a) How significant do you think this issue is?</p> <p>(b) Do you think this issue should be addressed by requiring full regulation pipelines to publish the following information:</p> <ul style="list-style-type: none"> (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. <ul style="list-style-type: none"> If so: 	<ul style="list-style-type: none"> Yes – publishing this information

No.	Questions	Feedback	
22	<p>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)?</p> <ul style="list-style-type: none"> If not, please explain why not: 	<ul style="list-style-type: none"> Yes, given the deficiencies in the reporting to assess the reasonableness of published prices the suggestions for improvement proposed by the ACCC in its July 2019 Interim Report and Brattle in its report to COAG are supported 	
	(B) If so:	(a) How significant do you think this issue is?	
		<p>(b) Do you think the deficiencies that have been identified with the pricing methodologies should be addressed by amending the NGR to require:</p> <p>(i) service providers to publish the inputs used to calculate standing prices?</p> <p>(iii) the relevant regulator to publish a guideline on what information should be contained in the pricing methodology?</p>	<ul style="list-style-type: none"> Yes
		(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?	<ul style="list-style-type: none"> Yes
23	<p>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)?</p> <ul style="list-style-type: none"> If not, please explain why not. 	<ul style="list-style-type: none"> Yes – the ACCC July 2019 Interim Report highlighted the limitations of weighted average prices; we favour publishing the minimum and maximum prices in addition to the weighted average prices for each service; this should provide some scope for prudent discounts This disclosure will address the current information asymmetry and lack of transparency, while still providing some level of confidentiality 	
		(a) How significant do you think this issue is?	

No.	Questions	Feedback
	<ul style="list-style-type: none"> • If so: <ul style="list-style-type: none"> (b) Do you think the deficiencies should be addressed by requiring service providers to report: <ul style="list-style-type: none"> (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? <p>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.</p> <p>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.</p>	<ul style="list-style-type: none"> • We support the publication of weighted average, maximum and minimum prices • We are concerned about the confidentiality and competition impacts of publishing individual + specific terms and conditions; given the range of prices/service bundles that might be offered on major pipelines this might lead to a very large reporting obligation
24	<p>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)?</p> <ul style="list-style-type: none"> • If not, please explain why not. 	<ul style="list-style-type: none"> • Yes. The standard for updating should be consistent with other areas in the NGR where errors are corrected as soon as practicable after they have been identified
	<p>(c) How significant do you think this issue is?</p>	
	<ul style="list-style-type: none"> • If so: <ul style="list-style-type: none"> (d) Do you think this issue should be addressed by implementing one or more of the following measures: <ul style="list-style-type: none"> • amending the NGR to provide for greater regulatory oversight of the information reported by service providers? • 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? • increasing the penalties for breaches of the information disclosure obligations and the access information standard? • the changes to the Financial Reporting Guideline identified by the ACCC and the Brattle Group (see Appendix B) should be implemented? 	<ul style="list-style-type: none"> • We recognise the initiative by Jemena, APA and the APGA to develop, under the auspices of the Energy Charter, the “Better Together Initiative to work with consumers, ACCC and the AER to improve pipeline information reporting. We would be interested to understand how this program might create material, sustainable outcomes for users, balanced with the certainty required by pipeline operators to deliver NGO-focused benefits • In parallel with this initiative we support the list provided here; we support continued audits of the Part 23 information provision by the ACCC as part of their ongoing gas inquiry role

No.	Questions	Feedback
25	<p>Do you think the current approach to reporting information should be maintained, or do you think:</p> <p>(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?</p> <p>(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)?</p> <p>(c) all the information reported by service providers should be made available through a single repository?</p> <p>Please explain your response to this question and set out how significant you think the accessibility issue is for shippers.</p>	<ul style="list-style-type: none"> • The plethora of sources and requirements shown in Table 9.1 means that the NGO would be furthered by a consolidation • We support the ACCC/Brattle proposed financial reporting Guideline in Appendix B
26	<p>Do you think, the current approach to reporting information should be maintained, or do you think the usability should be improved by requiring:</p> <p>(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</p> <p>(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?</p> <p>Please explain your responses to these questions and set out how significant you think the usability issue is for shippers.</p>	<ul style="list-style-type: none"> • We agree with the proposals in the RIS to improve information reporting – all this is part of improving access to and understanding of, the detailed information provided to shippers
27	<p>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?</p> <p>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)?</p>	<ul style="list-style-type: none"> • We do not support any exemptions.
28	<p>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?</p>	<ul style="list-style-type: none"> • No

No.	Questions	Feedback
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	<p>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)?</p> <p>(A) If not, please explain why not.</p>	<ul style="list-style-type: none"> • Yes. We support the implementation of a single negotiation framework that applies to all heavier and lighter regulated pipelines • We support continuation of the negotiate-arbitrate model if the changes supported in this submission are implemented; we think it can be the most efficient for all parties if it works well <ul style="list-style-type: none"> a. So the focus is on improving the chance of a negotiated outcome by: <ul style="list-style-type: none"> i. Improving the information and disclosure framework – though greater clarity of requirements and ongoing ACCC audits of reporting performance as supported above, ii. Bringing greater prescription into the arbitration process around pricing principles so that the service provider has more incentive to reach a negotiated outcome and little incentive to try to game and “out spend” a shipper during arbitration • As the RIS notes, the purpose of a dispute resolution mechanism was to constrain the exercise of market power during negotiations given the threat of arbitration and if arbitration is required try to ensure it is cost-effective and efficient • But the ACCC, Brattle and OGW reports indicated that these mechanisms were not working as intended and this is the experience of our members.
	<p>(B) If so:</p> <p>(a) How significant do you think this issue is?</p> <p>(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:</p> <ul style="list-style-type: none"> (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? 	<ul style="list-style-type: none"> • Yes; we see merit in further investigation of the hybrid option outlined in the RIS

No.	Questions	Feedback	
31	<p>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)?</p> <ul style="list-style-type: none"> If not, please explain why not. 	<ul style="list-style-type: none"> Yes, the ACCC evidence is clear on this; there is merit in removing the preliminary inquiry process from Part 23 	
	<ul style="list-style-type: none"> If so: 	<p>(e) How significant do you think this issue is?</p>	
		<p>(f) Do you think the preliminary enquiry process should be removed from Part 23?</p>	
32	<p>Do you agree that the credibility of the threat of arbitration is weaker for smaller shippers (see section 10.2.2)?</p> <ul style="list-style-type: none"> If not, please explain why not. 	<ul style="list-style-type: none"> Yes – it is and will continue to be a significant issue based on member feedback; as the RIS notes, we highlighted this issue in our submission to the GMRG on this matter; small shippers generally have neither resources nor the expertise to be able to mount an effective argument in arbitration against a pipeline owner; the pipeline owner has the added incentive of not wanting to lose any arbitration given that it may create a precedent for future arbitrations on that and other pipelines in its portfolio There are a number of matters that would assist small shippers: <ul style="list-style-type: none"> Implementation of the changes in the disclosure guideline recommended above in comments on Chapter 9 (and Table 9.2) Strong alignment between the participants in the proposed “Better Together Initiative” discussed above AER enforcement of the revised information disclosure guideline based on regular audits and publicly reporting of the results of those audits as was the case in their July 2019 Interim Report 	
		<p>(a) How significant do you think this issue is?</p>	

No.	Questions	Feedback
	<p>(b) Do you think the position of smaller shippers would be improved by:</p> <ul style="list-style-type: none"> (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? 	<ul style="list-style-type: none"> • Yes; we prefer maximum, minimum and average prices including conditions to be published rather than individual prices
<ul style="list-style-type: none"> • If so: 	<p>(g) Do you think any of the following should occur to further strengthen the position of smaller shippers:</p> <ul style="list-style-type: none"> (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? 	<ul style="list-style-type: none"> • Yes; however we consider that the best way of protecting small shippers from being disadvantaged is reform on the information disclosure and a more prescriptive approach for the arbitrator's assessment of pricing principals and asset valuation; this increases the chances of agreement being concluded without the need to go to arbitration • If, despite these improvements there is still the need for arbitration then the proposed approaches are supported to limit the cost exposure a small shipper would face
	<p>(h) 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?</p>	<ul style="list-style-type: none"> • We recognise the difficulty of defining "small shipper" eg as some large companies might be a "small" gas user; we would support a measure based on the NPC of the transport contract with any contract at a given threshold be considered "small"; even a large company with a small gas contract is unlikely to want to spend a considerable portion of the value of its transport contract on a complex arbitration; by contrast a service provider has a strong incentive to do just that given the present the arbitration may create not only for that pipeline but other pipelines in its portfolio

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?	<ul style="list-style-type: none"> • Yes. • Single-use pipeline customers • Ethane pipeline customers who are exposed to the monopoly and information asymmetry dynamics of the natural gas market yet are not afforded the same balanced regulatory provisions as are methane users.
		(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.		<ul style="list-style-type: none"> • We agree with the concerns highlighted in the AEMC's review
	(B) If so:	(a) How significant do you think this issue is?	

No.	Questions	Feedback
	<p>(b) Do you think these deficiencies should be addressed by amending the NGL/NGR to:</p> <ul style="list-style-type: none"> (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)? 	<ul style="list-style-type: none"> • Yes

35	Do you have any concerns with the Part 23 pricing principles (see Box 10.1)?	<ul style="list-style-type: none"> • Yes we do have some concerns about the pricing principles for Part 23 arbitration and would support more direction/less discretion for the arbitrator: <ul style="list-style-type: none"> ○ There is no requirement to use the relevant regulators binding rate of return instrument as there is for full and light regulation arbitration; as the ACCC showed in its Part 23 audit, some pipelines were using WACC somewhat higher than would be the case from the application of the AER binding guideline; we think the arbitrator should be required to use the AER's binding guideline ○ While the GMRG argued for some flexibility, we favour (and did at the time of the GMRG review) greater prescription in the pricing principles around the use of the recovered capital method of asset valuation; for example: <ul style="list-style-type: none"> ▪ If the sales price is below the asset value as calculated in arbitration then the sales price becomes the new asset value - we see no justification in consumers paying a tariff based on a valuation higher than the asset purchase price; consumers should not give the new owners a windfall gain ▪ If the sales price is higher than the asset value then the pricing should be based on the asset value – again we see no justification for consumers to pay a tariff based on the new owners willingness to pay above a regulated asset value ○ This would create a precedent list for future arbitration of the same pipeline • Our support for more prescription is strengthened by the variety of methods used by pipeline owners in providing their information disclosure as shown by the recent ACCC audit <ul style="list-style-type: none"> ○ we see the greater prescription as part of addressing the information and negotiating asymmetry between service providers and particularly smaller shippers; shippers have no desire to be embroiled in lengthy arguments before a very expensive arbitrator on the finer points of asset valuation, even if they had the resources to do so • Given the greater prescription in the pricing methodology we wonder what is the benefit of having an external arbitrator given the potentially large cost – which is why we support consideration of using the AER as the arbiter for Part 23.
----	--	---

No.	Questions	Feedback
	<p>If so:</p> <p>(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.</p> <p>(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?</p> <p>(c) Do you think there would be value in providing greater clarity in Part 23 about:</p> <p>(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?</p> <p>(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?</p>	<ul style="list-style-type: none"> • Yes
36	<p>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.</p>	

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?	<ul style="list-style-type: none"> • As shown in our summary at the beginning of this submission: <ul style="list-style-type: none"> ○ In no case do we support Option 1, status quo ○ Our support varies between options 2-4 depending on the Reform Focus
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.	<ul style="list-style-type: none"> • Yes • National Gas Law / Rules to be broadened to include Ethane. Ethane users are subject to the competition and information dynamics of the natural gas market yet are not afforded the same balanced regulatory provisions as are methane users. <ul style="list-style-type: none"> ○ We note there may also be a need to review the breadth given the current development of Hydrogen and its use in gas pipelines. • Broaden access to the Part 23 arbitration framework to enable access for ethane pipelines such that they are considered as non-scheme pipelines for the purposes of Part 23 • Eliminate exemption categories that currently enable exemption from Part 23 on the basis that the pipeline does not provide third party access and/or are a single shipper pipeline.
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?	<ul style="list-style-type: none"> • Yes, generally
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?	<ul style="list-style-type: none"> • No

	(b) deem all light regulation pipelines to be subject to full regulation?	<ul style="list-style-type: none"> No
	(b) deem all light regulation pipelines to be subject to the new lighter handed form of regulation (i.e. the strengthened Part 23)?	<ul style="list-style-type: none"> Yes – given that they now comply with the Part 23 information disclosure requirements
	(c) 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?	<ul style="list-style-type: none"> No
42	Are there any other transitional arrangements that need to be considered? If so, please outline what they are.	

Chapter 12: Regulatory impact assessment

No.	Questions	Feedback
43	<p>Do you agree with the risks that have been identified for:</p> <p>(a) the status quo in Tables A.1 and A.2?</p> <p>(b) identified for Options 2-4 in Tables A.3 and A.4?</p> <p>If not, please explain why not.</p> <p>If you think there are other risks and treatments that should be accounted for, please explain what they are.</p>	<ul style="list-style-type: none"> • Yes the assessment categories seem appropriate, as are the ratings– in particular we agree with the “High” and “Severe” risk ratings. • The only deficit is the current exclusion of ethane pipeline customers facing as previously discussed.
44	<p>Do you:</p> <p>(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?</p> <p>(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.</p> <p>(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.</p> <p>(d) think there are other input variables that should be subject to a sensitivity analysis? If so, please explain what those inputs are.</p>	<ul style="list-style-type: none"> • Yes • Yes
45	<p>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? If so, please elaborate on the source and quantum of the costs.</p>	
46	<p>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:</p>	<ul style="list-style-type: none"> • We think that the package of measure we are supporting in this submission (mixture of Options 2,3 and 4) will result in significant progress towards a pipeline sector that is closer to what a workably competitive market might achieve and hence contribute to achieving the NGO by reducing: <ul style="list-style-type: none"> ○ the information and bargaining asymmetry between shippers and service providers ○ search and transactions costs for shipper ○ the potential of service providers to exercise market power <p>while not adversely impact on the incentive to make efficient investments that meet the NGO</p>

No.	Questions	Feedback
	(a) the relative bargaining power of shippers and service providers?	
	(b) the search and transaction costs associated with contracting pipeline services?	
	(d) the potential for collusive behaviour in competitive segments of the market?	
	(e) changes to any barriers to entry that could promote or deter market entry?	
	(f) the long-term outlook for investment in the sector?	