

# COAG ENERGY COUNCIL SENIOR COMMITTEE OF OFFICIALS

## REGULATION IMPACT STATEMENT ON GAS PIPELINE REGULATION REFORM

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### TERMS OF REFERENCE

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Effective regulation of gas pipelines is critical to the efficient operation, use and investment in pipeline infrastructure, the efficient allocation of gas resources and for gas affordability.

The COAG Energy Council has requested that its Senior Committee of Officials (SCO) prepare a regulation impact statement (RIS) to examine options to improve gas pipeline regulation. This request was made in response to the Australian Energy Market Commission's (AEMC) recent review<sup>1</sup> which highlighted a number of problems with the existing regulatory architecture that have not been addressed through recent reforms.

Recent reform processes have improved pipeline regulation in Australia by extending the scope of regulation to previously unregulated pipelines (non-scheme pipelines) through the introduction of a new information disclosure and arbitration framework and addressing a number of deficiencies the Australian Competition and Consumer Commission (ACCC) identified with the forms of regulation that apply to scheme pipelines.

More work is required however to consider how recent reforms integrate with the broader regulatory framework.

#### **Purpose**

The purpose of the RIS is to identify and evaluate options to deliver a more efficient, effective and well-integrated regulatory framework for gas pipelines. The RIS will seek to identify the option that delivers the greatest net benefits and that best achieves the National Gas Objective and the Energy Council's Gas Market Vision, while:

- providing an effective constraint on monopoly pricing
- supporting efficient investment
- providing for the safe, reliable, and efficient operation and use of pipelines
- providing a framework for seeking access to pipeline infrastructure
- minimising administrative burdens and compliance costs
- being as simple and as well-integrated as possible
- supporting current and future opportunities and challenges facing the gas and pipeline industries.

The RIS will also provide a framework through which Part 23 of the National Gas Rules can be evaluated, for the purpose of the review which is scheduled to commence in August 2019 (two years following implementation). The review will be closely integrated with the RIS process and focus on the operation of Part 23, in particular, whether it is meeting its objectives and whether any improvements should be made. The review will include and consider:

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<sup>1</sup> AEMC, *Review into the scope of economic regulation applied to covered pipelines: Final report*, July 2018.

- consultation with stakeholders as part of the RIS consultation process
- advice from ACCC gathered through its ongoing enquiry
- other published information and expert advice.

Information obtained through the review will be used to inform the impact analysis and options presented in the RIS.

## Scope

The RIS will examine:

- existing forms of regulation that may be applied to scheme pipelines (i.e. full regulation or light regulation), non-scheme pipelines (i.e. the information disclosure and arbitration framework) and greenfield pipelines, alternatives to these forms of regulation and possible improvements.
- existing tests used to determine which form of regulation should apply (including whether regulation should apply at all) and alternatives, including the coverage test, the form of regulation test, the 15-year no-coverage test for greenfield pipelines and the exemption regime under the information disclosure and arbitration framework.
- related institutional, governance and process arrangements, including whether the process for applying for and determining the form of regulation to apply to a pipeline are fit for purpose, timely, accessible, low cost and conform with best practice regulation.

In undertaking this examination, the RIS will draw on:

- expert analysis including a review of international and best practice approaches, and other independent expert advice as required.
- existing reports (noting the RIS will not seek to duplicate these reports), including:
  - *East coast gas inquiry* (ACCC, 2016)
  - *East Coast Wholesale Gas Market and Pipeline Frameworks Review* (AEMC, 2016)
  - *Examination of the current test for the regulation of gas pipelines* (Dr Michael Vertigan AC 2016)
  - *Gas Inquiry 2017-2020* (ACCC, 2017)
  - *Review into the scope of economic regulation applied to covered pipelines* (AEMC, 2018).

## Consultation, timeframe, governance and outputs

The RIS will be undertaken in accordance with advice from the Office of Best Practice Regulation and the Council of Australian Government's *Best practice regulation: A guide for ministerial councils and national standard setting bodies*, available at:

<https://www.pmc.gov.au/resource-centre/regulation/best-practice-regulation-guide-ministerial-councils-and-national-standard-setting-bodies>

The RIS will be developed by a working group under the Gas Major Projects Implementation Team (GMPIT) comprising representatives of Commonwealth Departments, state and territory jurisdictions, the ACCC, the Australian Energy Regulator and the AEMC. Work will be coordinated by the Australian Government Department of the Environment and Energy. The working group will provide regular updates to GMPIT and seek feedback and endorsement of its progress and direction. Outputs from the working group will be considered for endorsement by the GMPIT, and SCO prior to being considered by Energy Council. The SCO Chair (Deputy Secretary, Energy Group, Australian Government Department of the Environment and Energy) will provide high-level oversight for the RIS process.

The public consultation process for this work will also seek stakeholders' views on the operation and effectiveness of the information disclosure and arbitration framework (also known as Part 23) and will commence in August 2019. This approach will avoid consultation fatigue and ensure the broader review is sufficiently well informed on the performance of Part 23 to make judgements on the overall regulatory framework.

The outputs to be delivered and indicative timeframes for delivery are:

<b>Output</b>	<b>Indicative timeframe</b>
Terms of Reference to COAG Energy Council for endorsement. Published on the COAG Energy Council website following endorsement.	December 2018
Consultation RIS published on the COAG Energy Council website for consultation.	August 2019
Decision RIS published on the COAG Energy Council website.	December 2019