14 June 2019

Sarah Stevenson
Manager, Resource Markets Policy
Ministry of Business, Innovation and Employment
Wellington 6140

Via email to Resource.Markets.Policy@MBIE.govt.nz

Dear Sarah

Discussion document – Options for amending the Gas Act 1992

1. This submission on the Ministry of Business, Innovation and Employment (*MBIE*) discussion document entitled Options for amending the Gas Act 1992 (the *Discussion Document*) is made on behalf of the Major Gas Users Group (*MGUG*).

2. MGUG was established in 2010 as a consumer voice for the interests of a number of industrial companies who are major consumers of natural gas. Membership of MGUG comprises:
   - Ballance Agri-Nutrients Ltd
   - Oji Fibre Solutions (NZ) Ltd
   - Fonterra Co-operative Group
   - New Zealand Steel Ltd
   - Refining NZ.

3. Members have been consulted on this submission, and in addition some members may also choose to make their own submissions. Nothing in this submission is confidential.

4. The key points of this submission are:

   - It is not clear how this review will proceed, including how it fits with the existing co-regulatory regime and other workstreams. The Discussion Document appears to shut down any scope for review of other parts of the Gas Act or relevant Crown Minerals Act provisions. This raises questions about the appropriateness of the regulatory approach.
   - MGUG disagrees with the view expressed in the Discussion Document that the topics of disclosure and penalties raise "largely technical issues".
   - A review of the penalties regime is premature until the precise substantive problem conduct is identified and the associated rules developed. The discussion on penalties appears largely focussed on critical contingency and provides little or no discussion on other aspects of governance (e.g. disclosure) where penalties might also apply.
   - The Discussion Document fails to show why a review of the penalties regime is needed at all and does not make any attempt to analyse an appropriate level, instead simply

looking over to the electricity sector regime. LDAC Guidelines should be followed in selecting the appropriate penalty regime.

- The discussion on new technologies, emerging fuels and hydrogen does not reveal any degree of substantive technical, operational or economic analysis. MGUG and its members will be able to provide better input as specific proposals are suggested.

Understanding the scope of the review

5. MGUG understands the purpose of the Discussion Document is to examine whether the Gas Act is "fit for purpose" with regard to the interaction of emerging technologies (specifically the uptake of alternative gaseous fuels), and what is referred to as "largely technical issues" to do with information disclosure and changes to the penalty regime.

6. The paper indicates that this consultation will inform MBIE's advice to the Minister on how to proceed with the issues discussed in the Discussion Document, including development and implementing any proposed changes to the Act. At this stage it is not clear what is proposed. Legislation is clearly contemplated but timing is not indicated. This submission accordingly proceeds on the basis that there will be ample opportunity for further consultation and submissions on specific proposals for amendment, as they are developed

7. We also proceed on the basis that the Discussion Document does not invite submission on other aspect of the Gas Act 1992 (the *Act*) or other matters affecting the smooth operation of the gas market. The consultation questions are framed solely in accordance with the review's purpose.

MGUG Concerns with the Discussion Document

8. MGUG's key concern with the Discussion Document is the review of the penalties regime. This regime will apply to parties covered by the Act, including any gas governance arrangements made under Part 4A.

9. As mentioned earlier, the status of the Discussion Document is unclear. It appears to be largely an information gathering step, but it is also suggested that it will form part of changes to the Act. It is not clear what is specifically intended following on from this paper and how the standard legislative process will be applied.

10. It is not clear how, for a "fit for purpose" review, MBIE has determined that these are the only areas that should be reviewed. Nor is it clear how the objectives under section 43ZN of the Act, and those included in the prevailing statement of government policy for the purposes of section 43ZO, have been applied. Whilst framed as the primary objective that GIC must apply in recommending regulations, it is nevertheless an overarching objective of GIC and the Act: "that gas is delivered to existing and new customers in a safe, efficient and reliable manner".

11. Other objectives under section 43 ZN include:

- the facilitation and promotion of the ongoing supply of gas to meet New Zealand's energy needs, by providing access to essential infrastructure and competitive market arrangements;
- barriers to competition in the gas industry are minimised;
- incentives for investment in gas processing facilities, transmission, and distribution are maintained or enhanced;
- delivered gas costs and prices are subject to sustained downward pressure;
- risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties;
- consistency with the Government's gas safety regime is maintained.

12. The current Government Policy Statement slightly broadens that primary objective to be "to ensure that gas is delivered in a safe, efficient, fair and environmentally sustainable manner". The GPS goes on to add the following further detailed objectives:

    - The facilitation and promotion of the ongoing supply of gas meets New Zealand's energy needs, by providing access to essential infrastructure and competitive market arrangements;
    - Barriers to competition in the gas industry are minimised;
    - Incentives for investment in gas processing facilities, transmission and distribution, energy efficiency and demand-side management are maintained or enhanced;
    - Delivered gas costs and prices are subject to sustained downward pressure;
    - Risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties; and
    - Consistency with the Government's gas safety regime is maintained.
    - Energy and other resources used to deliver gas to consumers are used efficiently;
    - Competition is facilitated in upstream and downstream gas markets by minimising barriers to access to essential infrastructure to the long-term benefit of end users;
    - The full costs of producing and transporting gas are signalled to consumers;
    - The quality of gas services where those services include a trade-off between quality and price, as far as possible, reflect customers' preferences; and
    - The gas sector contributes to achieving the Government's climate change objectives as set out in the New Zealand Energy Strategy, or any other document the Minister of Energy may specify from time to time, by minimising gas losses and promoting demand-side management and energy efficiency.

13. It is entirely unclear to MGUG what the Minister intends to do with these statutorily recognised objectives, but for MBIE to publish the Discussion Document focussed on its narrow selection of two or three topics, whilst the current statutory objectives could be thought to invite much wider policy analysis, is somewhat perplexing. To quote from the Legislation Design and Advisory Committee's own Guidelines, as endorsed by Cabinet in the

Cabinet Manual 2017, "regulatory options included in legislation must be consistent with the purpose of that legislation"[1].

14. MBIE needs to ensure that the narrow focus of the Discussion Document does not foreclose the opportunity for analysis and debate in other areas that give effect to the various current objectives.

15. Moreover, as the industry regulator, GIC already has a workstream underway looking at options for improving information disclosure in the wholesale gas sector. This existing regulatory work programme also includes a workstream to review the associated governance arrangements. We support GIC continuing with that work, and to the extent GIC needs expanded regulation-recommending powers with regard to information disclosure, we support that too.

A review of penalties is premature

16. The Discussion Document considers the discussion on disclosure and penalties to be "largely technical issues". MGUG disagrees. Treating these as merely "technical" understates the challenges and risks that market participants/end users face when dealing with the formulation of rules around information disclosure and critical contingency management.

17. Moreover, as currently framed the application of the rules and penalties regime to industrial gas users turns largely on whether they fall within the definition of an "industry participant" (and hence under section 43X are subject to Rulings Panel jurisdiction) or are a non-industry participant (and hence subject to criminal jurisdiction under section 43T)[2]. This area itself needs substantive and thorough analysis, including to assess ramifications for other parts of the Act and associated industry statutes.

18. Importantly, any revised penalties regime should respond and apply to the final arrangements set for information disclosure and critical contingency. A fit for purpose penalties regime cannot be developed before the precise substantive problem conduct is identified and the associated rules developed.

19. Again according to the LDAC Guidelines, "[i]f it is decided that the Government needs to monitor and enforce legislation, the choice between enforcement options (for example, criminal law, infringement offences, pecuniary penalties, injunctions, or management bans) must be based on a robust and transparent assessment of how appropriate the option is in

[1] LDAC Guidelines, section 22.2. The LDAC Guidelines have been endorsed in Cabinet Manual 2017 at paragraphs 7.37 to 7.39.

[2] The difference between an industry participant and a non-industry participant turns arbitrarily on how the user contracts its gas supply – whether from a wholesale or a retailer. Hence contracting arrangements could determine how penalties apply.

relation to the purpose of the legislation and the particular circumstances and regulatory system in which it will operate"[3].

Parallel GIC workstreams

20. GIC has the responsibility for proposing specific governance requirements for these areas, which is likely to involve setting regulatory parameters that will then be subject to the penalties regime. We note GIC has indicated there is a gap in its co-regulatory toolbox in the area of information disclosure.

21. Gas users have a legitimate and defensible interest in ensuring they do not fall into non-compliance by virtue of poor or ill-considered regulatory formulation.

22. While these GIC workstreams are underway, MGUG considers the design and implementation of disclosure and penalties to be premature. Put bluntly, the process is putting the cart before the horse and raises significant questions as to the application of good regulatory practice.

23. There are other areas where the intentions expressed in the Discussion Document make unclear what will happen with the specific governance workstream. Specifically, GIC's current disclosure workstream suggests (at page 32) increasing the amount of information on gas reserves, production, forecasts and deliverability to improve disclosure; GIC notes that disclosure of petroleum field information is managed by MBIE under the Crown Minerals Act (1991). However, in the Discussion Document MBIE has signalled the CMA to be out of scope, despite GIC suggesting it does not appear sensible to replicate the collection and publication of this data as separate information.

24. GIC has also signalled the intention to review governance arrangements for critical contingency. The last time this occurred was after the outage caused to the Maui pipeline in October 2011. That review included examination of the curtailment bands, the order of demand curtailment during disruption, and mechanisms (via a critical processing designation) to allow for measured ramp down of gas consumption (assuming some gas was available) so as to avoid plant damage and/or other process impacts (e.g. environmental).

25. Our experience of the process used by GIC to revise the arrangements was challenging, particularly for establishing a critical processing designation. Some of it was due to poor understanding of the practical limitations when applied in a New Zealand industrial processing context (a very high threshold set for the independence of any technical expert).

26. Our understanding is that GIC is willing to consider a range of issues with the Gas Governance (Critical Contingency Management) Regulations 2008, but it is unclear how

[3] LDAC Guidelines, section 22.2. See more generally the early design issues identified by LDAC in Chapter 1 of the Guidelines. The following statement in particular is relevant: "legislation should be fit for purpose – it should only be used when necessary, but when used it should be effective for that purpose…. that purpose needs to be clearly defined early and robustly tested" (at page 8).

extensive that process will be. This is a significant issue for MGUG as a reduction in gas supply will have significant consequences for plant operation. The settings of any critical contingency regime should be designed not only to ensure appropriate curtailment but also to ensure that gas supply is restored as quickly as possible (all parts of the system must be aligned with that driver).

27. This GIC process is unlikely to get underway before August 2019. It is unclear how the MBIE consultation fits with that.

Appropriateness of the regulatory approach

28. The nature and process by which the Discussion Paper has been released, with the lack of clarity as to how it fits with the existing co-regulatory regime and other workstreams, the lack of a coherent approach to the wider impact of some issues, and allowing only a very short period for consultation, does raise some not insignificant issues about the propriety of the consultation generally[4]. We hope that MBIE will be able to improve the consultation process as the workstreams develop, including to contextualise the specific issues raised in the Discussion Paper, justify the need for change and table a range of specific options.

29. In terms of both information disclosure and critical contingency management, MBIE needs to be convinced that legislative amendment is necessary if GIC is satisfied that other, non-regulatory, options exist. This itself underscores the issues with the apparent double-up in workstreams. GIC is already underway within the ambit of its co-regulatory mandate.

Comment on selected questions/issues

30. The balance of this submission provides comments on selected questions posed in the Discussion Paper.

Question 1 – What emerging technologies or alternative fuel sources are likely to be covered by the Act's definition of "Gas"?

31. The definition of "gas" in the Act is quite broad. In reality what constitutes an acceptable product will depend on the appropriate standards for natural gas (NZS 5442) and what is acceptable to users. Changes in composition need to ensure they do not have unintended impacts on process equipment etc. An example of this is Wobbe Index, where injection of H_2 may have a specific and deleterious impact on that measure. Care needs to be taken around any "gas" that has the potential to form liquids in the pipeline or plant. The issues here are highly technical and require thorough and expert analysis.

32. These considerations would also apply to whether the specifications were intended for transmission and/or distribution.

[4] The now well-known principles being those set out in the Court of Appeal's decision in *Wellington International Airport Limited v. Air NZ* [1991] 1 NZLR 671.

Question 2 – What aspects of the Act could be a barrier to the uptake of emerging technologies?

33. We suggest that any review of the Act's fit with emerging technologies needs to start with a review of the objectives outlined at paragraphs 10 to 12 above. GIC and industry participants (including users) need a clear position on what is the Government's position on the objectives, and how emerging technologies affect these.

34. A key issue is access to infrastructure, including gas pipelines, and how the competing demands of the various parties accessing those pipelines can accommodate the new technologies. That topic itself quickly becomes very technical, and different pipeline users will likely have different views.

35. We do not see specific parts of the Act as being a barrier to the implementation of new technologies, in the abstract. The question would be better posed by reference to specific proposals.

36. Whilst individual members may be able to voice particular concerns regarding new technologies, as a group MGUG does not have a firm position on barriers to uptake of emerging technologies. We are not explicitly aware of any at this stage. We are conscious, however, that it is likely that of paramount importance is First Gas' obligation as pipeline owner to act as a reasonable and prudent operator, ensuring that all gas quality, specification and deliverability requirements are met.

Question 8 – What concerns do you have about the flow and availability of information available to you or your organisation regarding situations that may affect the price and/or availability of gas supply?

37. We have commented on this question in our response to GIC's consultation paper Options for Information Disclosure in the Wholesale Gas Sector (we attach a copy to this submission). For our members, information is important if it provides the ability effectively to manage their operations and make informed investment decisions (we emphasise information is critical to determining whether investment in gas is acceptable). We note our specific comments around the extent of reserves and contingent resource information (at page 3):

> "Reserves and contingent resource information that lack explanation into sources of contingency, and investment programs that need to be delivered to bring reserves to market and resources to reserves category. We contrast this with what is available in the East Coast gas market in Australia. The annual Gas Statement of Opportunities (GSOO) include a breakdown of reserve information in terms of developed vs undeveloped reserves, 2C, and also Prospective Resources. It also provides the expected marginal production costs in $/GJ of both 2P and 2C resource estimates. The content of this information is much more useful than what is

provided currently in New Zealand through MBIE. In particular, the indicative marginal production cost information would help inform decisions about alternative fuel investment and/or gas import."

38. There are differences in the views expressed by GIC in its paper (at page 32). GIC indicates that MBIE is currently reviewing data it publishes with a view to possibly increasing the amount of data it makes available.

39. The MBIE Discussion Document has noted that the CMA is out of scope. Yet it is via the CMA that this information is provided. On the face of it GIC would not be able to access this information if it determined this was beneficial in improving disclosure.

The Penalties Regime

Question 10 – What concerns do you have about the current penalty regime for gas governance?

40. The discussion on the penalties regime seems to be largely focussed on critical contingency management, whereas it will in fact apply to other areas as well, including of course information disclosure. In the context of the Act's penalties having very rarely been invoked, MBIE has not actually made out any case for now reviewing the regime.

41. MGUG members have lived with the Act's penalties regime (see sections 43T and 43X) since Part 4A was introduced and have no philosophical objection to penalties applying for breach of the gas governance regulations. However, they do have a concern with the arbitrariness of the existing regime, which applies either criminal or civil penalties depending solely on how a gas user contracts for gas, namely, on whether the contract is with a wholesaler or a retailer. A supplier of gas can be both, in different circumstances.

42. MGUG does not have a firm view on what a fixed threshold amount should be for a user to qualify as an industry participant. This is a matter that requires further analysis, including consideration of other repercussions throughout the Act. This would be a matter that the GIC should review from a pan-industry perspective.

43. MGUG is not convinced that the LDAC Guidelines thresholds for imposing criminal versus civil penalties[5] are necessarily met, in terms of the gravity or consequences of any offending. Criminal offences are intended to punish and deter truly blameworthy and harmful conduct, and compelling reasons must exist before they are applied[6]. MBIE needs to be very satisfied that any criminal sanctions as apply already under section 43T to non-industry participants continue to be justified if the rules are changed, and appropriate consultation with the Ministry of Justice carried out (including as regards any increase in penalty). And as pointed out earlier in this submission, it is difficult sensibly to undertake the policy analysis here without the underlying regulatory regime having been conceived.

[5] See Chapters 24 and 26 in particular.

[6] LDAC Guidelines, Ch 24, p 111.

44. We urge MBIE to take into account the importance to major industrial users of the reputational and contractual drivers for compliance, and accept this as a key factor in influencing disclosure and compliance behaviour.

45. MGUG accepts the quantum of the penalty under sections 43T and 43X is currently reasonably low. However, the regime has hardly ever been applied and any increase needs to be justified on the basis of rigorous analysis (ie. proportionate to blameworthiness and effect). MGUG does not believe it necessarily appropriate simply to lift the quantum of the penalty applicable in the electricity sector, which is set at $200,000. The electricity sector operates entirely differently and non-compliance with the Electricity Industry Participation Code has quite different ramifications for a much wider group of industry participants.

46. That said, the actual quantum of the fine is not what will drive major gas user compliance. Reputational damage will instead be a key driver as will be contractual and other duties owed to upstream suppliers and stakeholders. MBIE should not underestimate the importance to users of protecting their reputations through good regulatory compliance. What will drive compliance is a well structured regime aligning drivers with outcomes and that is fair to all.

47. Higher penalties are only acceptable if they are to better ensure integrity of the system and also ensure that all affected users are encouraged to comply.

Question 11- Are there other factors such as contractual arrangements between parties that mitigate any concerns about the penalties regime?

48. If the Discussion Paper is acknowledging that contract formation is what drives a user being an industry participant or not, then that is correct. We have commented elsewhere that this aberration needs fixing. Contracts typically require compliance with industry regulation, in a way that only adds to the drivers to comply, regardless of regulatory penalties. Price gross-up clauses are common, so that where the customer causes breach of some regulatory requirement as a result of which the supplier incurs a penalty, fine or tax, that will be passed through.

Question 12 – Aside from penalties for breaching gas governance arrangements, are there any other penalties under the Act that you consider are not fit-for-purpose?

49. We are not aware of other penalties being inappropriate. Given the focus of the Discussion Paper, what does MBIE have in mind here? Please provide further information on other penalties of relevance and we would be happy to consider this.

Question 13 – Do you consider it still appropriate for the Gas Rulings Panel to only have one member if the penalties are increased to higher levels?

50. As a matter of natural justice, and particularly if higher penalties and/or further criminal sanctions are envisaged, MGUG would favour the Rulings Panel being constituted with more than one member. Although we do not believe this has occurred to date, there is a strong

risk of lack of impartiality, a risk of entrenched thinking and of course the usual risks associated with one sole person making a decision rather than a decision being the product of the sharing and debating of views.

Question 14 – Do you support the addition of daily or volumetric penalties to the Act to enhance the flexibility of penalties available? What would be an appropriate minimum or maximum rate, if any?

51. MGUG believes it is flawed analysis (albeit superficially attractive) to say that a fixed limit on a penalty creates a perverse incentive, in that the more gas that is consumed, the lower the effective penalty (i.e. the more worthwhile it can become to breach). Any cost on a business is a cost, and businesses seek to minimise avoidable costs. Boards are also focussed on compliance, as a good corporate citizen and as a matter of reputational importance; the actual penalty amount does not drive behaviour. Volumetric penalties should be reserved for the most blameworthy, intentional and serious offending. The fact that the Rulings Panel has power to make a range of other orders is of no insignificance.

52. A volumetric penalty effectively penalises larger users when in fact their gas usage will be what it is by virtue of their operation or process. Their conduct will not necessarily be any more or less culpable than that of a smaller user although we accept the market effect of non-compliance may be larger.

53. It is important in considering imposition of a volumetric penalty regime to bear in mind that in circumstances of a critical contingency, the key driver for MGUG members will be arrangements that allow for a managed reduction in consumption without harm to people or damage to critical plant or equipment. If a critical contingency situation exists, then there will be very real operational plant issues to manage and plant management will drive behaviour, in the same way that from a user's perspective it drives the formulation of critical contingency arrangements. This itself is an illustration of the inappropriateness of considering the penalties regime before and in isolation from the underlying CCM rules.

Question 15 – Are there circumstances where the Act should impose a criminal offence on either industry participants or non-industry participants? What are these?

No, and moreover, we would urge MBIE to look at the appropriateness of the existing section 43T.

Question 16 – Do you support the addition of a civil pecuniary fine as an additional penalty to improve the effectiveness of the penalties regime? If not, why not?

54. Penalties should not double up and duplicate each other. MGUG would favour a civil pecuniary penalty (a fine) over a criminal penalty, provided appropriate defences are available (e.g. unintentional non-compliance).

Question 17 – What are your views on expanding the definition of industry participant to include all large gas users (e.g. any user averaging over a certain level of consumption per day?). If so, what would be the appropriate threshold?

55. MGUG does not yet have a unified view on the appropriate threshold but this could be a matter that GIC should look into from an overall industry perspective.

Yours sincerely

Richard Hale
Hale & Twomey Limited
Secretariat for the Major Gas Users Group

Attachment: MGUG Submission on GIC's Consultation Paper - Options for Information Disclosure in the Wholesale Gas Sector

17 April 2019

Paul Cruse
Gas Industry Company Ltd
WELLINGTON 6140

Dear Paul,

Re: MGUG Submission on GIC's Consultation Paper - Options for Information Disclosure in the Wholesale Gas Sector

1. We attach our submission on the Gas Industry Company (GIC) Consultation Paper - Options for Information Disclosure in the Wholesale Gas Sector. This submission is being made on behalf of the Major Gas Users Group (MGUG):

    a. Ballance Agri-Nutrients Ltd
    b. Fonterra Co-operative Group
    c. New Zealand Steel Ltd
    d. Oji Fibre Solutions Ltd
    e. Refining NZ

2. Nothing in this submission is confidential and some members may choose to make separate submissions.

3. MGUG was represented at the workshop held at the GIC offices on Wednesday 27th March 2019, which fleshed out the issues and views of various parties in the gas supply chain. We found the workshop useful in terms of helping our understanding of how other parties viewed this topic and it has helped to shape our views in this submission.

4. We have also reviewed the information supplied in the GIC paper (Appendix A) in relation to Information Disclosure in other countries and markets. This has been useful in demonstrating the degree to which public disclosure in New Zealand is aligned with practices in similar jurisdictions. This is particularly in Australia where similar market structures to New Zealand exist and with similar features in relation to tight supply and demand conditions[1].

5. We have considered our submission in two parts:

    a. What information is currently missing, but important in terms of our member's ability to effectively manage their operations and make informed investment decisions.
    b. Whether relevant information can be acquired contractually through bilateral contract arrangements and/or through paid services, and whether it is reasonable and efficient to expect all market participants to gain information through these means.

[1] ACCC and GMRG Joint recommendations – Measures to improve the transparency of the gas market – Executive Summary - http://www.coagenergycouncil.gov.au/sites/prod.energycouncil/files/publications/documents/ACCC-GMRG%20Measures%20to%20Improve%20the%20Transparency%20of%20the%20Gas%20Market.pdf

6. Whether through contractual or public arrangements, MGUG considers *information symmetry to be central to the efficient functioning of markets*. This broad economic principle underpins much of the reasoning for information disclosure in jurisdictions noted in Appendix A.

7. Secondly in determining what information should be provided we apply a relevance test. The concept of relevance implies that *information should impact the decision-making of someone perusing the information.* Both *content* and *timeliness* is what makes information relevant

8. The events around Pohokura in 2018 that triggered this information disclosure review impacted members in different ways. Not all members had arrangements for gas supply from Pohokura and so were not impacted by any supply problems or any communication challenges. However where supply arrangements included Pohokura, members were impacted by the supply problems and also experienced communication challenges; their experience was that suppliers were not able to inform them fully, or in a timely way. This left them poorly equipped to be able to deal with the consequences of the outages.

9. MGUG members appreciate that their size permits them to have more both more understanding of what information is relevant, and more leverage with suppliers to access information that smaller parties might have difficulty getting through their retailers. However the stronger argument for more generally available information is that even large users are ultimately affected by the decisions of smaller players who are part of the energy market network. If smaller or weaker parties lose confidence in the market because of its opaqueness it can adversely affect overall demand and market diversity that could expose larger consumers to greater cost burdens in other gas infrastructure (gas transmission/ distribution). Furthermore demand destruction reduces incentives for developing further gas supplies.

10. There are other indirect effects also of information asymmetry, particularly through the electricity market as noted in a recent letter to GIC from Meridian dated 29 March 2019. Opaqueness in gas arrangements will have an impact on both electricity spot prices and hedge contracts if generators have to price in the additional uncertainty of gas outage information and future gas supply conditions.

11. In general, relevant information for MGUG members that relate to the gas information disclosure discussion are:

    a. Will I be able to receive the gas that I have contracted for when I need it?
    b. How secure is my supply on a short term and long term basis?
    c. What investments do I need to consider to mitigate price and security risks in the market?
    d. Can I get sufficient warning of supply disruptions to inform my operational contingency planning?

12. The limitation of this information through bilateral agreements is that these questions can only be addressed directly with the counterparty. Where the information sits outside of the counterparties there is a reliance on public disclosures to fill the information gap.

13. There are various public sources that assist with decision making, including through published data provided by MBIE (Energy in New Zealand), and listed companies' websites. However in many cases the information may neither be timely nor effective.

a. **Some information lacks sufficient content** to enable effective decision making. Examples include:

    i. **Reserves and contingent resource information** that lack explanation into sources of contingency, and investment programs that need to be delivered to bring reserves to market and resources to reserves category. We contrast this with what is available in the East Coast gas market in Australia. The annual Gas Statement of Opportunities (GSOO) include a breakdown of reserve information in terms of developed vs undeveloped reserves, 2C, and also Prospective Resources. It also provides the expected marginal production costs in $/GJ of both 2P and 2C resource estimates. The content of this information is much more useful than what is provided currently in New Zealand through MBIE. In particular, the indicative marginal production cost information would help inform decisions about alternative fuel investment and/or gas import.

    ii. **Outage information**. Reasons for outage, projections of duration, and limits on the accuracy of the information are not disclosed generally. We note that even today there is a lack of clarity on progress and timing of the current Pohokura repair work.

    iii. **Deliverability.** The information on maximum and minimum deliverability for each field is historic and of limited value – maximum and minimum deliverability going forward would provide more useful information.

b. **Some information is not timely**. Examples include:

    i. MBIE Reserves and resources information that are typically 7-8 months out of date before they are published.

    ii. Outage information relevant to the market (such as in the Pohokura events last year). These lacked both insight in terms of why the information might be important to the market, and also lacked any effort to regularly update the status of progress to achieve normal production.

    iii. Gas price information aggregated by MBIE from wholesalers and retailers and published annually in *Energy In New Zealand* is 7-8 months out of date. It is also published only annually, whereas production data is published quarterly.

c. **Not all information is easy to locate**. Examples of scattered and fragmented information include:

    i. Ahuroa gas storage – *net movements* in storage are published a month in arrears, but not actual storage unless people search for the last time it was reported (usually buried in a news article or an annual report).

    ii. emsTradepoint – FRMI and FRQI indices can be tracked from the website for free provided that it is monitored every day and recorded every day. The alternative is to pay for a view only subscription.

d. **Not all relevant information is publicly available**. Examples include:

   i. Production and storage facility deliverability. For example we understand that Ahuroa gas storage deliverability is a function of storage levels. This seems to be information relevant to inform the electricity market on fuel supply.
   ii. emsTradepoint information that sits behind the pay wall, e.g.– FRMI and FRQI indices

14. Information disclosure is adequately managed in some parts of the supply chain and has clear mechanisms for adapting to changing demands or requirements. MGUG for example is comfortable with the transmission information disclosure and the ability to modify these via Change Request controls within the GTAC code.

15. The workshop at the GIC ranged broadly and robustly across a number of issues. There seemed to be some consensus that information disclosure could be improved, even if there was some difference around specifics that should be disclosed. From MGUG's perspective we would be happy for the industry to find ways to improve the quality of information that is generally available with regard to improved content and timeliness (both in terms of currency of the information and the frequency of the reporting). If some consensus with party sign off can be achieved around the following topics (including guidelines) then it might be appropriate to see whether any more rules based information disclosure is required :

    a. Planned Outage information from Producers affecting more than 5% of the gas market;

    b. Unplanned Outage Information affecting more than 5% of the gas market;

    c. Field Deliverability from production;

    d. Gas storage and gas storage deliverability;

    e. More timely release of aggregated price information from MBIE and an accommodation with emsTradepoint on their previously disclosed FRQI and FRMI information;

    f. Improved context around reserves and contingent resource information. We suggest the GSOO information for East Coast Australia provides a useful model of what would also be valuable for New Zealand.

Yours sincerely

Richard Hale/Len Houwers
Hale & Twomey Ltd/Arete Consulting Ltd
Secretariat for the Major Gas Users Group