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# Summary of submissions: Options for amending the Gas Act 1992

September 2019

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## Purpose of this document

1. This document aims to summarise and provide a record of views from the submissions received on the *'Options for amending the Gas Act 1992'* discussion document. This document sets out:
  - 1.1. The number of submissions received and from which groups;
  - 1.2. A high-level summary of the matters that submitters commented on; and
  - 1.3. Notes other matters that were raised as part of consultation.
2. The questions provided in the discussion document are attached in full at Annex one for reference.

## Introduction

3. The Gas Act 1992 (the Gas Act) forms a key part of the legislative system for the use of gas in New Zealand. It provides for the regulation, supply and use of gas, the regulation of the gas industry, and for the protection of the health and safety of members of the public in connection with the supply and use of gas in New Zealand.
4. On 12 May 2019, we began a period of public engagement on a discussion document entitled *'Options for amending the Gas Act 1992'*, which ran until 12 June 2019. The discussion document sought the views of submitters on three areas:
  - 4.1. Potential barriers that the Gas Act presents to the uptake of emerging technology and alternative fuels;
  - 4.2. A proposal to introduce a broad information disclosure gas governance arrangement-making power; and
  - 4.3. A series of questions about the design of a range of penalties and related matters under the Gas Act.

## Submissions Received

5. A total of 24 submissions on the discussion document were received. Of these:
  - 5.1. 13 were from various businesses, including producers, retailers, and consumers;
  - 5.2. three were from gas transmitters/distributors;
  - 5.3. five were from industry groups or associations; and
  - 5.4. three were from other groups.
6. The majority of submitters provided their views through separate documents rather than through the online form submission template on the Ministry of Business, Innovation and Employment's (MBIE) website.

## Overview of submissions by section of the discussion document

### Emerging technology and alternative fuels

- Hydrogen was noted as the most promising alternative fuel that the Gas Act may be required to regulate. Several submitters noted that hydrogen should be included explicitly in the Gas Act to provide certainty to stakeholders for conducting pilot programmes.
- An exemption, with conditions, from the Gas Act's requirements was also noted as a potential option for enabling pilot stage projects to go ahead without being hindered by regulatory barriers.
- Submitters noted specific issues with the Gas Safety and Measurement Regulations 2010, particularly with regard to the particular New Zealand Standards. This will need to be investigated in order to ensure that they do not present unnecessary barriers to the uptake of alternative fuels and emerging technologies.
- Submitters generally noted the inherent uncertainty in regulating emerging technology and the need to retain flexibility.

### Information disclosure

- Almost all submitters supported introducing a 'regulatory backstop' into the Gas Act to enable broad information disclosure rules or regulations be recommended by the Gas Industry Company (GIC). However, there were a range of views on if a regulatory approach should be adopted, or if a voluntary approach (with the backstop) would be sufficient.
- Submitters who did not support a broad information disclosure-making provision cited factors such as not supporting the disclosure of demand side information for commercial reasons, or cited the impact this may have on sovereign risk if such a provision were to be introduced.
- While outside the scope of the Gas Act, several submitters noted issues with the timeliness and level of aggregation of information that MBIE releases (quarterly and through its Energy in New Zealand publication). MBIE is improving how it publishes data and information and will take on this feedback.

### Penalties Regime

- There were a variety of views on the current penalty regime provided for by the Gas Act. Of those that submitted on the issue, most submitters did not identify explicit issues with the current penalties regime. Several submitters considered that a review of penalties should wait until the GIC undertakes a review of the Gas Governance Critical Contingency Management Regulations 2010 (CCM regulations) and/or the information disclosure issues.
- Several contended that the Ruling Panel's compensation orders mitigate the need for large civil pecuniary penalties, particularly in the context of CCM regulation breaches.
- There were mixed views on the addition of volumetric penalties, with some submitters supporting them as they added more flexibility to the penalty regime under the Gas Act. Those that did not support identified that the quantum of gas consumed was not proportional to the extent of harm (with volumetric penalties disproportionately affecting larger users).
- Most submitters supported harmonising the penalty regimes between non-industry

participants and industry participants (i.e. aligning the criminal penalties vs pseudo-civil regime).

- First Gas and the Gas Association of New Zealand submitted that there is a regulatory gap within the Gas Act penalty regime around unauthorised access to critical infrastructure.

## Emerging challenges for the Gas Act

7. Part two of the discussion document sought the views of submitters on how emerging technologies and alternative fuel technologies will interact with the Gas Act's regulatory regime.
8. The document included seven questions around potential barriers to the uptake of emerging technologies and alternative fuels presented by the Gas Act. The intention of seeking these submissions was to inform a longer-term programme of work around the Gas Act and the uptake of these technologies. Particularly, in the context of a transition to a low emissions economy. MBIE intends to further engage with stakeholders at a later date on this work.

### Potential barriers to the deployment of emerging technologies

9. First Gas noted that *"the Act, in its current form, is suitable for known emerging fuels and blended fuels we expect to see develop in New Zealand"*. This sentiment was echoed by several other submitters on the consultation document.
10. Submitters commented on the inherent uncertainty for regulating emerging technologies and facilitating the uptake of alternative fuels. Submitters noted that the Gas Act needs to retain flexibility in order to respond to these challenges and that the Government needs to be careful in order to avoid unintended consequences, especially in regards to the regulations made under the Gas Act.
11. The majority of submitters also noted that ongoing collaboration and consultation with industry stakeholders on proposed changes to the Gas Act would be important for mitigating any unintended consequences – particularly on secondary legislation made under the Gas Act. No submitters identified specific provisions of the Gas Act itself which presented an unnecessary barrier to uptake.

### *Hydrogen was identified as the most promising alternative fuel by submitters*

12. Several submitters noted that hydrogen was the most obvious alternative fuel that the Gas Act may be required to regulate. Several submitters considered that, while hydrogen is already covered by the broad definitions of gas in the Gas Act, there would be benefit in hydrogen being explicitly defined as a gas. Submitters considered that this would provide certainty to those considering hydrogen projects in New Zealand.
13. MBIE notes that while hydrogen currently meets the definition of a gas under the Gas Act, when it is being used as a gaseous fuel there may be some merit in explicitly defining it. Biogas is, for example, explicitly included in the Gas Act's definition. We will consider this as we progress our work around how the Gas Act manages emerging technologies and alternative fuels.
14. One regulatory barrier that was identified was the Gas Safety and Measurement Regulations 2010 which are made pursuant to sections 54 and 54A of the Gas Act, which explicitly reference New Zealand Standards that must be met.

15. The NZS5442:2008 standard was specifically identified as being a potential barrier to the uptake of alternative fuels. This standard defines the requirements for providing a gas suitable for transportation and for end-use by most consumers for gas burning appliances or vehicle fuel.
16. Ports of Auckland considered that it would like an interim solution to address regulatory barriers ahead of a comprehensive review of the Gas Act. Ports of Auckland also suggested amending the Gas Act to expand the definition of gas under the Gas Act to allow for a narrow power of exemption from a subset of regulatory provisions, with conditions, to enable pilot projects to be undertaken.

### Other matters

17. The Plumbers, Gasfitters and Drainlayers Board noted the need to consider potential impacts on operational regulation regarding gasfitters for the uptake of any new technologies, including changes to the training curriculum and assessment processes.
18. Greymouth Petroleum considered that amendments to the Commerce Act 1986 should also be considered if the volume of natural gas through the transmission system were to decline over time.
19. OMV, Greymouth Petroleum and the Petroleum Explorers and Production Association of New Zealand (PEPANZ) suggested that consideration be given to the ability for the Gas Act to cover the use of reticulated carbon dioxide, particularly if Carbon Capture Storage and Utilisation (CCSU) were to be developed and applied in New Zealand.
20. Regulation of CCSU under the Gas Act would likely represent a significant change to the current scope of what the Gas Act regulates. Careful consideration will need to be given to avoid regulatory duplication and to establish clear roles for the different aspects of the regulatory regime.
21. MBIE notes that the Productivity Commission's inquiry into transitioning to a low-emissions economy provides a good overview of current regulatory or legal uncertainty about the application of CCSU in New Zealand. As signalled in the Government's response to this report, the Government will be making decisions in 2020 around the the legislative framework.

## Information disclosure

22. Part three of the consultation document sought submitter views on information disclosure. Question seven sought submitters' views on the current settings for information disclosure, particularly in the context of the Pohokura production outages. Question eight sought views on whether submitters supported the introduction of an additional provision to enable regulated information disclosure by the Gas Act. Twenty two submitters provided comment on information disclosure issues.
23. Amending the Gas Act to address the information disclosure issues is complementary to the Gas Industry Company's (GIC) work to determine if regulatory or non-regulatory interventions in the gas market are required. MBIE's view is that the current regulatory empowering provisions in the Gas Act are quite narrow, and would not be sufficient to enable broad information disclosure requirements. This means that the Gas Act will likely need to be amended in order for the GIC to recommend new regulated information disclosure requirements.

### Concerns about information disclosure

**Question eight:** *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?*

24. In question eight, MBIE sought the views of the views of submitters on the flow and availability of information available to participants for the management of situations in the market that may affect the price and or/availability of the natural gas supply, as well as the consequences of these situations on other markets (primarily the electricity market).
25. Meridian Energy noted in its submission *"that the lack of readily available gas market information drives volatility in the closely related wholesale electricity market and undermines confidence in that market."*
26. The views or concerns of submitters' on information disclosure were generally split across different segments of the gas market. There was broad support for the introduction of new requirements (either voluntary or regulated) for planned and unplanned outage information. At a high level, views on information disclosure were as follows:
- 26.1. Upstream producers generally noted that they had no particular issues with the current arrangements for information disclosure. OMV in particular noted that the problem as identified would not warrant disclosure beyond planned and unplanned outage information. Producers supported a voluntary information disclosure regime to address the issue but did, however, support the introduction of a regulation-making provision in the Gas Act as a backstop; and

- 26.2. Other submitters generally noted that they see that there are information asymmetries in the gas market and that better information disclosure will inform more efficient market behaviour. The main information gaps identified were around planned and unplanned outages at major gas production and user facilities. These submitters favoured a regulated solution to address information disclosure issues.
27. Several submitters suggested mirroring the requirements under the electricity regulatory regime for disclosure under the Gas Act, and believe that the establishment of enhanced information disclosure requirements is a matter of priority.

## **New regulatory powers for information disclosure**

**Question nine:** *Do you support the inclusion of an additional regulation/rule making power in the Gas Act to require broader disclosure of information from the gas industry?*

28. Question nine sought the views of submitters on adding a new regulatory power to the Gas Act to enable enhanced information disclosure. All submitters supported amending the Gas Act to provide for additional powers to enable information disclosure to some extent. Methanex New Zealand supported information disclosure regulations for producers, but not for gas users. Several submitters, including Petroleum Exploration and Producers Association of New Zealand (PEPANZ), supported information disclosure requirements for gas users due to the role they play in supply and demand balancing.
29. Meridian Energy in its submission noted that it does not share the view of the GIC and MBIE that the Gas Act does not allow broader information disclosure regulations to be made (but supported the intention for a regulated solution to be put in place). Specifically, it noted that regulations for the “.. *provision and disclosure of data and other market information*” is quite a broad provision and could potentially be used for the creation of information disclosure requirements.
30. Greymouth Petroleum noted the point that enhanced information disclosure requirements will not mitigate the effects of a limited supply of gas, noting that improved information disclosure will not be a “*a panacea for poor governance and risk management practices by participants that have failed to anticipate shortages*”.
31. Several submitters noted that changes to the Gas Act to introduce a new regulatory empowering provision to enable information disclosure should be done as soon as possible. This is to ensure that the gas and electricity markets are not exposed to volatility driven by a lack of readily available gas market information.
32. It was also noted that any regulated information disclosure requirements will need to avoid overlap with the Crown Minerals Act 1991’s (CMA) requirements which place information disclosure requirements on permit holders around information such as gas reserves.



## Penalties regime

33. This section presented a series of questions to submitters on the penalties regime provided for in the Gas Act. The Gas Act provides for a Gas Rulings Panel that may make orders if an industry participant breaches gas governance rules or regulations. The Gas Act also allows for a criminal penalty that may be applied to either industry participants or consumers.<sup>1</sup>
34. The criminal penalty has only been implemented in the Critical Contingency Management Regulations 2008 (CCM regulations) for situations where consumers may breach gas governance arrangement. This covers situations where the Rulings Panel does not have jurisdiction (i.e. over non-industry participants).

### Concerns about the Penalty Regime

**Question ten:** *What concerns do you have about the current penalty regime for gas governance arrangements provided for by the Act?*

35. Question ten asked submitters if they had any particular concerns about the penalties regime. The Gas Act provides the empowering provisions for penalties that the GIC may use for penalising breaches of gas governance arrangements. The GIC is responsible for recommending when/if penalty provisions should apply under gas governance regulations.
36. Most submitters who responded to this question indicated that they had no particular concerns with the current penalties regime provided for by the Gas Act. Several submitters noted the need to ensure that the penalties regime reflects the extent of harm when a breach occurs.
37. There are a variety of perspectives on the issue of penalties under the Gas Act:
- 37.1. The majority of submitters on this question indicated that they had no particular concerns with the penalty regime as it stands. Some submitters noted that there were no material issues that needed to be addressed through changes to the penalties regime.
- 37.2. First Gas suggested that only the penalties regime for CCM regulations should be amended if the Government's concern is with this particular penalty.
- 37.3. The Major Gas Users Group (MGUG) and PEPANZ considered that a review of penalties at this time was not appropriate given the ongoing development of the information disclosure workstream led by the GIC, and that this may be better done after the information disclosure regime is designed. MGUG noted its concerns regarding the arbitrariness of the current penalty regime in differentiating between industry participants and non-industry participants.

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<sup>1</sup> Section 43T of the Gas Act 1992.

- 37.4. The Electricity Authority (EA) considered that the quantum of penalties provided for by the Gas Act was too weak. It supported aligning the penalties across the electricity and gas sector to enable efficient incentives and behaviours across both markets. However, the EA noted that the support for aligning the two penalties regimes did not mean that the EA considered the relevant electricity legislation as being set at the right level.
38. Two submitters suggesting adjusting the penalties for inflation since they were introduced. Using the Reserve Bank of New Zealand inflation calculator, this would adjust the maximum penalties under the Gas Act to approximately \$28,000.
39. Several submitters noted concerns about the regime provided for by the CCM regulations. As these matters sit within the regulations, this is a GIC matter and is outside the scope of MBIE's work to amend the Gas Act.

### **Mitigating factors relevant to the penalties regime**

**Question eleven:** *Are there other factors, such as contractual arrangements between parties that mitigate any concerns about the penalties regime?*

40. Question eleven sought the views of submitters on how arrangements, such as compensation orders or contractual arrangements mitigate the low quantum of penalties available under the Gas Act. There were a range of views on this question:
- 40.1. Todd Energy considers the ability of the Rulings Panel under the Gas Act to make orders for compensation to parties affected by the breach of the CCM regulations mitigates the small penalty amount, with the compensation potentially well exceeding \$200,000.
- 40.2. Genesis Energy considered that the gas transmission codes set strong incentives for gas shippers to remain in balance and comply with the codes.
- 40.3. Contact Energy considered that there were no factors that mitigated concerns around the penalty regime as the regulations override contractual arrangements during critical contingencies.
- 40.4. Fonterra suggested that the financial penalties for the industry participants and non-industry participants are the same in practice as Fonterra is contractually liable to compensate the participant where it is Fonterra's breach that has caused the loss.

### **Other penalties under the Gas Act 1992**

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

41. Question 12 sought the views of submitters on if they had any particular issues with other penalties, aside from gas governance breaches, under the Gas Act. Few

submitters commented on other penalties under the Gas Act, but noted that the wider penalties regime should be reviewed as part of any broader review of the Gas Act.

## Constitution of the Gas Rulings Panel

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

42. Most submitters on this question supported retaining a one member Rulings Panel. Some submitters noted that there would be benefits in including a range of people and experiences (such as industry, legal and technical experience) and that more members would reduce the likelihood of entrenched or biased thinking. It was noted that this may be more of a reason to change the Rulings Panel, rather than because of increased penalties.
43. Contact Energy and Genesis Energy supported a one person panel, indicating that the infrequency of referrals to the panel, and the costs of supporting an increased penalty were probably not justified. Noted that panel should reflect work load as the costs of running the panel are passed on to consumers.
44. Vector's view is that due to the fact that breaches referred to the Gas Rulings Panel are rare, there are not enough reasons to challenge the status quo with respect to the constitution of the Rulings Panel constitution.
45. Related points made by submitters:
  - 45.1. Greypower New Zealand suggested an energy sector wide Rulings panel.
  - 45.2. GANZ stated that it had no particular concerns with the current regime, on the basis that the panel is reviewed within the next three to five years.
  - 45.3. Todd Energy suggested a stepped approach for compensation claims, citing an example where if the amount of compensation is claimed as \$100,000 or more the size of the Rulings Panel could be increased to three.

## Additional daily and volumetric penalties

**Question fourteen:** *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?*

46. Question 14 sought the views of submitters on the addition of volumetric or daily penalties to the Gas Act.
47. Several submitters supported the addition of volumetric and daily penalties to the Gas Act, in its submission, GANZ stated that *"the addition of daily or volumetric penalties to the Gas Act to enhance the flexibility and proportionality of available penalties."* Contact Energy and Genesis Energy supported the addition of new daily or volumetric penalties particularly in the context of the CCM regulations.

48. A number of submitters did not support the addition of volumetric penalties to the Gas Act. Several reasons were cited for this:
- 48.1. MGUG’s view was that volumetric penalties should be saved for the most blameworthy, intentional or serious offending, and that the creation of such penalties would essentially be penalising larger users. PEPANZ shared similar concerns with the creation of a volumetric penalty;
  - 48.2. In its submission Fonterra, as a gas consumer noted, that *“Although the financial penalties afforded to non-industry participants are not hugely significant, the reputational issues that could arise out of breach are material. The existence of the threat of a criminal prosecution intensifies the impact of the reputational risk”*; and
  - 48.3. In its submissions, Todd did not support the addition of daily or volumetric penalties to the Gas Act. Its view was that the as the Ruling’s Panel is able to issue compensation orders which are directly proportional to the impact of the breach mitigated the need for volumetric or daily penalties.
  - 48.4. For the reasons outlined under question 11, Todd Energy considers that as Compensation payments, by definition, are directly proportion to the impact of any breach; which outweighs the need for daily and volumetric penalties to apply.

## Criminal penalties

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

49. The discussion document sought the views of submitters on the need for criminal penalties under the Gas Act. Only six submitters submitted directly on this question, with some submitters who provided more unstructured submissions touching on this issue.
50. Views on this question were mixed:
- 50.1. OMV had no particular concerns, and Vector had no comment to make.
  - 50.2. MGUG did not support the inclusion of these penalties in the Gas Act and suggested that section 43T should be reviewed in terms of alignment with the Legislation and Advisory Committee Principles<sup>2</sup> principles.
  - 50.3. Genesis Energy failed to see a situation where criminal penalties should be applied, outside the theft of gas. Fonterra also supported this view.

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<sup>2</sup> The guidelines are available [here](#).

50.4. Contact Energy was not aware of any circumstances where the Gas Act should impose a criminal offence on either industry participants or non-industry participants.

## **New civil pecuniary penalty**

**Question sixteen:** *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?*

51. Question 16 sought the views of submitters on the addition of a new civil pecuniary penalty, which may be applied to industry participants or non-industry participants for breaches of gas governance regulations under the Gas Act (analogous to the penalty currently under section 43T). These are penalties that would be applied by the High Court. Most submitters who responded to this question supported the addition of a civil pecuniary penalty to the Gas Act.
52. MGUG noted that it would favour a civil penalty over a criminal penalty and suggested that MBIE review the appropriateness of the current section 43T penalty in line with the LDAC guidance. Powerco submitted that it supported in principle aligning the penalty regimes between Industry Participants and consumers.
53. Genesis noted the merit in ensuring that civil penalties are available to sanction non-industry participants. Would ensure consistency and tailoring to the nature and severity of the offending. It noted that civil penalties would be appropriate in situations where a small/medium sized user fails to comply with a Gas Retailer's instructions in a critical contingency situation.
54. Submitters noted:
  - 54.1. New penalties should not duplicate or double-up with existing penalties which is consistent with LDAC and Ministry of Justice guidance on the application of penalties; and
  - 54.2. Appropriate defences should be available for consumers (such as unintentional non-compliance).

## **Alignment of the penalty regimes for consumers and industry participants**

**Question seventeen:** *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 an appropriate threshold?*

55. The consultation document sought views from submitters on the application of penalties to non-industry participants. We presented three options:
  - 55.1. Option One: maintain industry participant definitions and penalties regime (i.e. the status quo);

- 55.2. Option Two: Introduce a new civil pecuniary penalty to align the penalty regime for non-industry participants and industry participants; or
  - 55.3. Option Three: Expand the definition of industry participant to include all large consumers which would make the Gas Rulings Panel apply.
56. The majority of submitters supported Option Two, identifying this option as the simplest for aligning the two penalty regimes while minimising any unintended consequences for the co-regulatory model. Genesis Energy noted the strong incentives to comply within the transmission code, but noted that it seemed sensible to support these with a civil pecuniary penalty. Powerco supported, in principle, aligning the regimes for consumers and industry participants but wanted more analysis on this issue before changes are made.
57. While Option Two was favoured by submitters, some submitters commented on Option Three:
- 57.1. Contact Energy supported Option Three, if all large users were made industry participants and indicated that consumption of greater than 10TJ per day may be an appropriate threshold for this; and
  - 57.2. MGUG stated that it did not have a unified view on the appropriate threshold but that this could be a matter that the GIC should look into from an overall industry perspective.

## **Other matters raised by submitters as part of the consultation**

### **Publishing and disclosure of information by MBIE**

58. A variety of submitters commented on the data and information that MBIE publishes on its website. This was focused on information that MBIE releases about the energy sector under a variety of regulations, for example: the CMA.
59. Submitters focused on two issues:
- 59.1. The production forecasts and reserves information that are submitted to MBIE by permit holders under the CMA in March each year as part of the annual summary reporting process. Several submitters considered that this data should be released much faster than is currently the case.
  - 59.2. The second issue was the timeliness and level of data provided in MBIE's regular energy sector publications. In particular, the quarterly gas and electricity pricing information and the *Energy in New Zealand* publication were noted by submitters. Contact Energy noted that it was sometimes easier to obtain timely information through New Zealand's International Energy Agency reporting rather than waiting for information to be published on MBIE's website.

60. MBIE is working to improve how we publish data and information and will incorporate this feedback into future work.

### **Extending the coverage of the Gas Act 1992 to cover unauthorised infrastructure access**

61. GANZ and First Gas noted issues around unauthorised interference with critical infrastructure. It was suggested that New Zealand could adopt a similar approach to that taken by New South Wales under its Infrastructure Protection Act<sup>3</sup>.
62. The Auckland to the Marsden Point Refinery was cited as an example of what can occur if unauthorised access to critical infrastructure occurs.
63. MBIE notes First Gas's concerns around the access to infrastructure in New Zealand. The Independent Refinery Auckland Pipeline Inquiry is due to report back in the next couple of months, the terms of reference of which touch on similar issues to that raised by GANZ and First Gas. MBIE will consider how best to address these issues after the release of this inquiry.

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<sup>3</sup> The full title of this legislation is the Energy Legislation Amendment (Infrastructure Protection) Act 2009 (NSW).

## Next Steps

64. Submissions on emerging technology and alternative fuels will be used to inform the Government's work on the energy regulatory system to ensure it supports the transition to a low carbon economy by 2050.
65. Submissions on the issues around information disclosure and the penalties regime will be used to inform final policy decisions on issues relating to the Gas Act and potential amendments. Policy development on these areas for change is still ongoing and MBIE may undertake further consultation with submitters on these issues.
66. We are grateful to those organisations and individuals who provided a submission on the discussion document.

## Annexes

Annex one: Consultation questions from the discussion document '*Options for amending the Gas Act 1992*'



## Annex one: Consultation questions from the discussion document ‘Options for amending the Gas Act 1992’

### Emerging challenges for the Gas Act 1992

**Question one:** What emerging technologies or alternative fuel sources are likely to be covered by the Act’s definition of “Gas”?

**Question two:** What aspect(s) of the Act could be a barrier to the uptake of emerging technologies or alternative fuels?

**Question three:** What aspects should be amended or changed to facilitate the emergence of new technologies and alternative fuels?

**Question four:** How will your business be impacted if changes to the Act are not made in the short-term (e.g. two to three years)?

**Question five:** Does the Act cause any issues with complying with any requirements under other legislation?

**Question six:** Are you or your organisation involved in the development or deployment of emerging technologies or alternative fuels?

**Question seven:** Are you interested in being contacted as MBIE develops a longer-term programme of regulatory work around the development of emerging technologies and alternative fuels relating to the Act?

### Information disclosure

**Question eight:** 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?

**Question nine:** Do you support the inclusion of an additional regulation/rule making power in the Act to require broader disclosure of information from the gas industry?

### Penalties under the Gas Act 1992

**Question ten:** What concerns do you have about the current penalty regime for gas governance arrangements provided for by the Act?

**Question eleven:** Are there other factors, such as contractual arrangements between parties that mitigate any concerns about the penalties regime?

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

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

**Question fourteen:** 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?

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

**Question sixteen:** 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?

**Question seventeen:** 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 an appropriate threshold?