NATIONAL
COMPETITION
COUNCIL

Northern Goldfields Interconnect Gas Pipeline
15 year no-coverage application

Final recommendation

24 November 2023

No-coverage recommendation

The Council's final recommendation is that the Northern Goldfields Interconnect be exempted from being a covered pipeline for a period of 15 years.

On 23 June 2023 the National Competition Council (Council) received an application under s 151(1) of the National Gas Access (Western Australia) Law (WA Gas Law) from APA Northern Goldfields Interconnect Pty Ltd (APA NGI) for a 15 year no-coverage determination for the Northern Goldfields Interconnect (NGI) natural gas pipeline (Application).

The Council's reasoning is set out in this document.

Pipeline classification

The Council considers that the NGI is appropriately classified as a transmission pipeline (see 2.32) and is situated wholly within Western Australia (see 2.27). As a result, the Minister for Mines and Petroleum; Energy; Hydrogen Industry; Industrial Relations in Western Australia is the relevant Minister for the purposes of s 153(1) of the WA Gas Law (see 2.37).

Greenfields pipeline project

The Council is satisfied that the NGI is a greenfields pipeline project within the meaning of s 149 of the WA Gas Law on the basis that it is structurally separate from any existing pipeline (see 2.11).

Pipeline coverage criteria

The Council is not satisfied that the following pipeline coverage criteria are satisfied in relation to the NGI:

(a) that access (or increased access) to pipeline services provided by means of the pipeline would promote a material increase in competition in at least 1 dependent market, other than the market for the pipeline services provided by means of the NGI (see Chapter 3), or

(b) that it would be uneconomic for anyone to develop another pipeline to provide the pipeline services provided by means of the NGI (see Chapter 4), or

(d) that access (or increased access) to the pipeline services provided by means of the NGI would not be contrary to the public interest (see Chapter 6).

The Council is satisfied that the following pipeline coverage criterion is satisfied in relation to the NGI:

(c) that access (or increased access) to the pipeline services provided by means of the pipeline can be provided without undue risk to human health or safety (see Chapter 5).

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Abbreviations and defined terms

APA Group	APA Group Limited (ACN 091 344 704)
APA NGI	APA Northern Goldfields Interconnect Pty Ltd (ACN 646 298 142)
Application	The application under s 151(1) of the WA Gas Law by APA NGI for a 15 year no-coverage determination for the NGI, received by the Council on 23 June 2023
CCA	*Competition and Consumer Act 2010* (Cth)
Council	National Competition Council
CRWPL recommendation	The Council's final recommendation in respect of an application for a 15 year no-coverage determination for the Comet Ridge to Wallumbilla Pipeline Loop dated 28 April 2015.
DBNGP	Dampier to Bunbury Natural Gas Pipeline
ERA	Economic Regulation Authority (Western Australia)
GGP	Goldfields Gas Pipeline
km	kilometre
LNG	liquefied natural gas
mm	millimetre
MDQ	Maximum Daily Quantity
MPa	megapascal
National Gas Law	The National Gas Law, which is set out in the Schedule to the *National Gas (South Australia) Act 2008* (SA) and applied as a law of South Australia by that Act and as a law of New South Wales, Queensland, Victoria, Tasmania, the Australian Capital Territory and the Northern Territory by an application Act in each jurisdiction.
NGI	Northern Goldfields Interconnect
NGR	The National Gas Rules, made under the NGL and applied as a law of South Australia by the NGL and as a law of New South Wales, Queensland, Victoria, Tasmania, the Australian Capital Territory and the Northern Territory by an application Act in each jurisdiction.
PJ/d	Petajoules per day
TJ/d	Terajoules per day
WA Gas Access Act	*National Gas Access (WA) Act 2009* (WA).
WA Gas Law	National Gas Access (Western Australia) Law, the text of which is set out in a Note to the WA Gas Access Act.
WA Gas Rules	The National Gas Rules that apply in Western Australia, being Version 1 of the NGR as amended by: (a) Rules made by the South Australian Minister for Energy under the *Statutes Amendment (*National *Energy Laws) (Binding Rate of Return Instrument) Act 2018* (SA) and the *National Gas (South Australia) (Pipelines Access – Arbitration) Amendment Act 2017* (SA); and (b) Rules made by the AEMC in accordance with its rule making power under ss 74 and 313 of the WA Gas Law.

1 Introduction

The Application

1.1 On 23 June 2023, the Council received an application under s 151(1) of the WA Gas Law from APA NGI for a 15 year no-coverage determination for the NGI.[1]

1.2 APA NGI contends that criteria (a), (b) and (d) of the pipeline coverage criteria are not satisfied in relation to the NGI and therefore the NGI should be subject to a 15 year no-coverage determination by the relevant Minister.

1.3 APA NGI accepts that criterion (c) is satisfied.[2]

The Northern Goldfields Interconnect

1.4 The NGI is owned and operated by APA NGI, an entity of APA Group Limited (ACN 091 344 704) (APA Group) which is a public company listed on the Australian Securities Exchange. APA Group owns and operates natural gas and electricity assets and is Australia's largest natural gas infrastructure business.

1.5 A description of the pipeline is available from APA's website.[3]

1.6 This new natural gas pipeline (the NGI) transports gas from the Dampier to Bunbury Natural Gas Pipeline (owned by AGIG) at Ambania, approximately 50 km east of Geraldton, and connects into the Goldfields Gas Pipeline (owned by APA Group)[4], approximately 40 km north of Leonora and 40 km south of Leinster.

1.7 It is a buried pipeline, approximately 580 km long, with an external diameter of approximately 300 mm and maximum operating pressure of 15.3 MPa.[5] The pipeline's initial design capacity maximum is 76 TJ/d. From July to September 2023 throughput was around 6 TJ/d[6], with APA NGI expecting this to increase to 13 TJ/d by the end of Financial Year 2024.[7]

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1 APA NGI, *Northern Goldfields Interconnect, Application for a 15-year no-coverage determination under section 152 of the National Gas Access (Western Australia) Law*, 23 June 2023. (Application)

The Application is available from the Council's website.

2 APA NGI, Application, p 38.

3 Description of the NGI: https://www.apa.com.au/our-services/gas-transmission/west-coast-grid/the-northern-goldfields-interconnect-pipeline/

Map of the NGI: https://www.apa.com.au/globalassets/our-services/gas-transmission/west-coast-grid/the-northern-goldfields-interconnect-pipeline/ngi-pipeline-schematic.pdf.

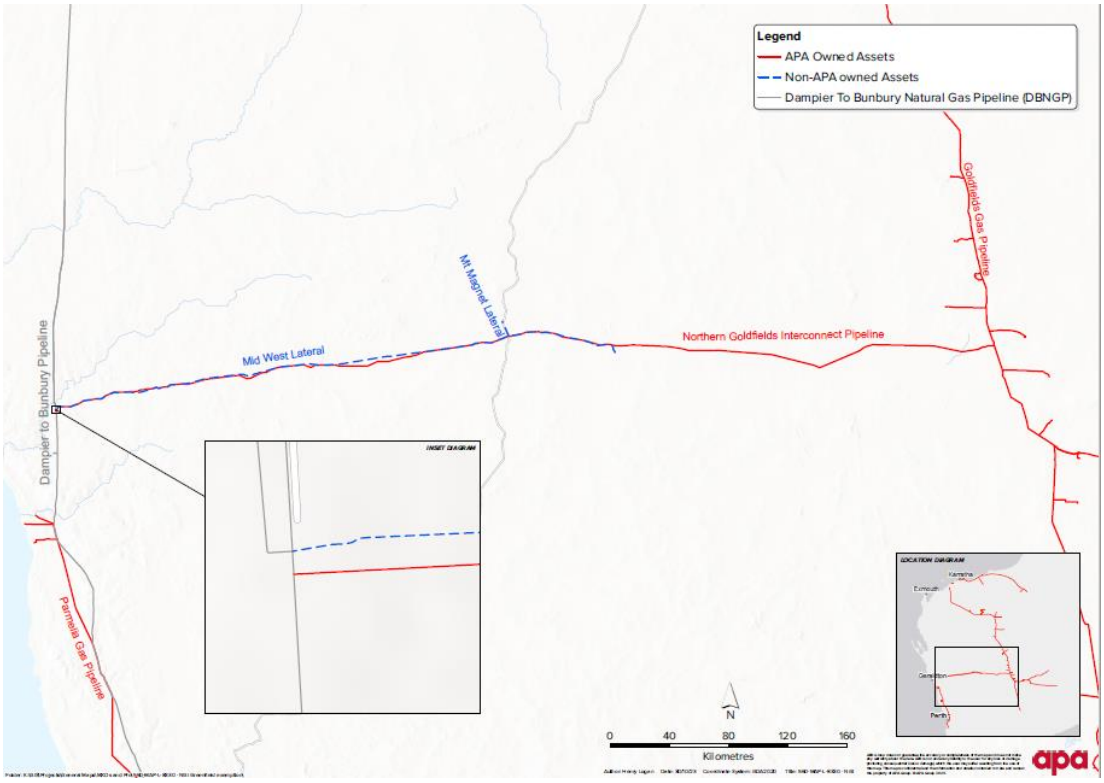
4 APA Group, ASX announcement, *Acquisition of Alinta Energy Pilbara and $750 million equity raising*, 23 August 2023, p 3. APA now owns all of the Goldfields Gas Pipeline after it bought the remaining 11.8% minority stake from Alinta.

5 APA NGI, Application, p 7.

6 AEMO website, Reports, Actual Flows, year to date 2023, accessed 21 September 2023.

7 Appendix E: APA supplementary information (ACCC information request sent 6 September 2023 with APA NGI's response received 15 September 2023), p 4.

Figure 1: Map of new NGI



Source: provided by APA, November 2023.

1.8 The NGI conveys gas in a single, easterly direction.

1.9 The NGI includes some associated above-ground facilities located along the route of the pipeline including a compressor station at Ambania and an offtake and delivery station but there are currently no laterals that form part of the NGI.[8] APA NGI has stated that an additional compression station can be added at the Yoweragabbie Scraper Station.[9]

1.10 The NGI runs close to an existing pipeline, the Mid West Pipeline. The Council notes that APA recently sold out of the Mid West Pipeline.[10] This pipeline has capacity of 10.6 TJ/d.[11] While both the NGI and Mid West Pipelines connect to the Dampier to Bunbury pipeline it is via separate connections. Both pipelines share the same route until Mount Magnet. The Mid West Pipeline finishes after Mount Magnet.

1.11 Additional maps are available at Appendix B (whole of Western Australia gas networks) and Appendix C (APA Group's assets within Western Australia).

8 Laterals are branch lines from the main pipeline.

9 APA NGI, Application, p 7.

10 Appendix E: APA supplementary information, p 1. *APA has disposed of its ownership interest in the MWP. APA continues to undertake operation and maintenance functions for the MWP, under contract with the new owners. APA has no role in customer liaison or commercial contracting for the MWP*.

11 APA, Mid West Pipeline & Mt Magnet Lateral schematic, accessed 14 August 2023 (APA website).

Relevant law

1.12 Western Australia is a participating jurisdiction in the national gas regulatory scheme to the extent set out in the *National Gas Access (WA) Act 2009* (WA Gas Access Act), which adopts the WA Gas Law. The WA Gas Law is a modified version of the National Gas Law that applies in the rest of the country.[12] Western Australia also adopts a modified version of the National Gas Rules, referred to in this Final Recommendation paper as the WA Gas Rules.

1.13 Pursuant to s 151(1) of the WA Gas Law, if a greenfields pipeline project is proposed, or has commenced, the service provider may, before the pipeline is commissioned, apply for a determination exempting the pipeline from being a covered pipeline. This is known as a 15 year no-coverage determination.

1.14 An application for a 15 year no-coverage determination must be made to the Council (s 151(3)(a)).

1.15 On receiving an application, the Council must deal with it in accordance with the WA Gas Rules (s 152). The Council must make a recommendation to the relevant Minister on whether the pipeline should:

(a) be exempted from being a covered pipeline for a period of 15 years, or

(b) not be exempted from being a covered pipeline for a period of 15 years (s 153(1)).

Threshold and other matters

1.16 There are a number of threshold matters that the Council must consider:

- whether the application meets the requirements set out in s 151(3) (see 2.1)
- whether information in the Application claimed by APA NGI to be confidential is confidential information for the purposes of s 331(1) of the WA Gas Law (see 2.2)
- whether the application was made before the pipeline was commissioned, as set out in s 151(1) (see 2.3), and
- whether the pipeline is a greenfields pipeline project (s 149) (see 2.11).

[12] Unlike in all other participating jurisdictions, under the WA Gas Law changes to the National Gas Law do not automatically apply in Western Australia. Changes to the WA Gas Law must be specifically adopted in Western Australia by the Minister for Mines and Petroleum; Energy; Hydrogen Industry; Industrial Relations in Western Australia. (AEMC, Western Australia (National Gas Rules); AEMC, Fact sheet: Guide to the application of the National Gas Law and National Gas Rules in Western Australia, accessed 26 September 2023).

1.17 As part of its recommendation to the relevant Minister, the Council must also classify the pipeline as a transmission or distribution pipeline, known as an initial classification decision (s 155). The initial classification decision, as well as whether the pipeline is a cross boundary pipeline or situated wholly within a participating jurisdiction, will determine the relevant Minister for the purposes of the application (see 2.23 and 2.35).

1.18 This Final Recommendation deals with these matters in Chapter 2. The pipeline coverage criteria are discussed in Chapters 3 to 6.

Pipeline coverage criteria

1.19 In making a recommendation, the Council must give effect to the 'pipeline coverage criteria' and, in deciding whether or not those criteria are satisfied, have regard to the 'national gas objective' (s 154(1)).

1.20 The 'pipeline coverage criteria' are set out in s 15 of the WA Gas Law:

(a) that access (or increased access) to pipeline services provided by means of the pipeline would promote a material increase in competition in at least 1 market (whether or not in Australia), other than the market for the pipeline services provided by means of the pipeline (see Chapter 3)

(b) that it would be uneconomic for anyone to develop another pipeline to provide the pipeline services provided by means of the pipeline (see Chapter 4)

(c) that access (or increased access) to the pipeline services provided by means of the pipeline can be provided without undue risk to human health or safety (see Chapter 5), and

(d) that access (or increased access) to the pipeline services provided by means of the pipeline would not be contrary to the public interest (see Chapter 6).

1.21 The 'national gas objective' is set out at s 23 of the WA Gas Law:

> *The objective of this Law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas.*

1.22 The Council gives effect to the pipeline coverage criteria as follows (s 154(2)):

(a) if the Council is satisfied that all the pipeline coverage criteria are satisfied in relation to the pipeline the recommendation must be against making a 15 year no-coverage determination, or

(b) if the Council is not satisfied that all the pipeline coverage criteria are satisfied in relation to the pipeline the recommendation must be in favour of making a 15 year no-coverage determination.

1.23 Accordingly, if any one or more of the coverage criteria is not met, the Council must recommend in favour of a no-coverage determination.

Time horizon

1.24 In considering whether it is satisfied that the pipeline coverage criteria are satisfied, the Council should determine the 'time horizon' over which the assessment should be made. We note that the exemption would be for 15 years. The Council has therefore assessed whether it is satisfied that the pipeline coverage criteria are satisfied over an approximately 15 year time horizon.

Timing

1.25 The Council must make its final recommendation within 4 months after receiving the Application (which can be 'paused' to take into account consultation periods).[13] A broad outline of the stages in considering the Application is as follows:

- The Application was received on 23 June 2023.
- Notices were published on 26 July 2023, inviting submissions on the Application.
- Submissions were due by 16 August 2023.
- The Council sought additional information from APA NGI on 6 September 2023.
- APA NGI provided a response to the Council's request for information on 15 September 2023. (See Appendix E)
- The Draft Recommendation paper was published on 18 October 2023.
- Submissions on the Council's Draft Recommendation paper were due on 13 November 2023.
- This Final Recommendation paper was published on 24 November 2023, which is within the time period specified in the WA Gas Law.
- The Minister has 30 business days from receiving the Council's recommendation to make a decision.[14]

Stakeholder engagement

1.26 On 26 July 2023 the Council published notices in *The Australian* and *The West Australian* newspapers inviting written submissions on the Application and published a public version[15] of the Application on the Council's website on 24 July 2023. The period for submissions ended on 16 August 2023, being 15 business days after the public notice under r 8(2)(a)(ii) of the WA Gas Rules.

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13 See r 123(1) – (3) of the WA Gas Rules. Note that there is provision for this time period to be extended but it cannot be extended by more than a further 2 months. Further, r 11 allows for certain activities to be disregarded when calculating elapsed time, including time to make public submissions (r 11(1)(c).

14 After receiving the recommendation, the Minister must use his or her best endeavours to make a decision as to whether to make a 15 year no-coverage determination within 30 business days (WA Gas Law, s 156).

15 This version excludes confidential material.

1.27 The Council did not receive any submissions on the Application.

1.28 On 18 October 2023 the Council published its Draft Recommendation and invited written submissions from stakeholders by 13 November 2023. No submissions were received.

1.29 The Council prepared its Final Recommendation based on the Application, supplementary information received from APA NGI and publicly available information. The specific information and resources taken into account are identified in Appendix A.

2 Threshold and other matters

Initial requirements and application fee

2.1 The Council is satisfied that the Application meets the requirements of s 151(3) of the WA Gas Law. Specifically, the Application was made to the Council, the required information has been provided (including the information specified in r 121 and 122 of the WA Gas Rules) and the application fee has been paid.

Confidentiality

2.2 APA NGI has made claims of confidentiality over limited information contained in the Application. The Council accepts that this information is confidential for the purposes of s 331(1) of the WA Gas Law but does not seek to rely on it in this Final Recommendation.

Commissioning date

2.3 A service provider is only permitted to apply for a 15 year no-coverage determination under s 151(1) of the WA Gas Law in respect of a greenfields pipeline project that is proposed or has commenced before the pipeline is commissioned. The WA Gas Law (s 12) provides that: 'A pipeline is commissioned when the pipeline is first used for the haulage of natural gas, on a commercial basis'.

2.4 The Application was made on 23 June 2023, and stated that the NGI had been substantially built but was not yet 'fully commissioned'.[16] The Application did not specify the date that the NGI was to be commissioned.

2.5 The Council notes that an APA NGI media release reported that the NGI was commissioned on 23 June 2023, while APA Group's website states that the NGI was fully operational from 1 July 2023.[17] The Service Usage Information Report referred to on APA Group's website also indicates that a quantity of gas was scheduled to be injected to and withdrawn from the NGI from July 2023 onwards.[18]

2.6 The Council sought clarification from APA NGI about the commissioning date for the NGI. APA NGI has subsequently stated that the NGI was first used for the haulage of gas on a commercial basis on 1 July 2023.[19]

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16 APA NGI, Application, p 7.

17 APA, media release, *Northern goldfields interconnect pipeline officially opened*, 28 July 2023, accessed 8 September 2023.

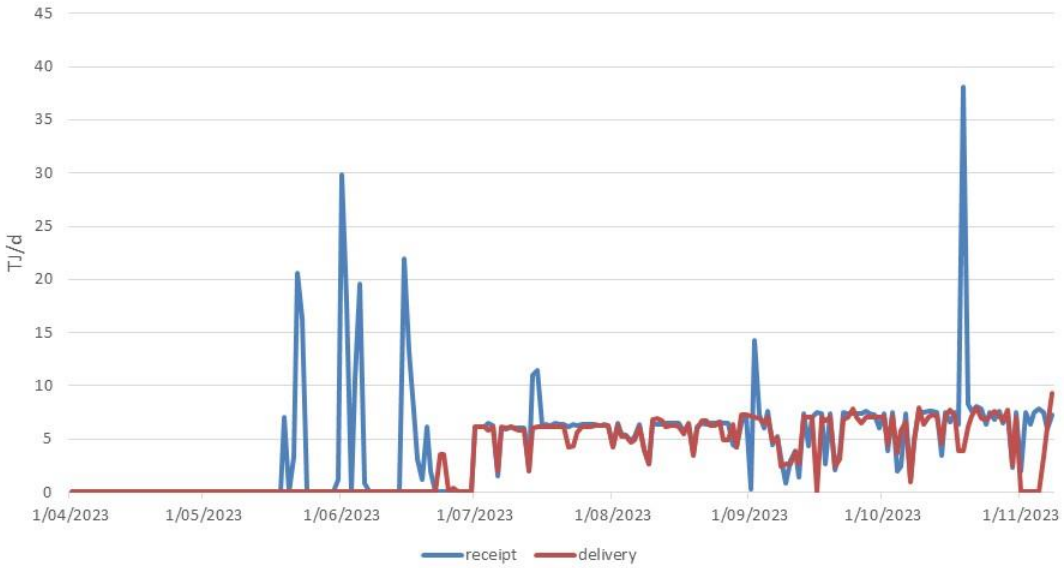
APA, northern goldfields interconnect, accessed 4 October 2023.

18 APA, Service Usage Information Report, northern goldfields interconnect, accessed 4 October 2023.

19 Appendix E, APA NGI supplementary information, p 1.

2.7 The Council notes this is consistent with the Australian Energy Market Operator's records, as set out in Figure 2, which show erratic inflows of gas from May 2023 before a steadier flow of gas throughput of around 6 TJ/d from 1 July 2023.

Figure 2: NGI Actual Flows (TJ/d), 1 April to 8 November 2023



Source: AMEO website, Reports, Actual Flows, year to date 2023, accessed 10 November 2023. Receipt are inflows from the Dampier to Bunbury pipeline. Delivery is outflows into the Goldfields pipeline.

2.8 Having regard to the definition of 'commissioned' in s 12 of the WA Gas Law, the Council reads the requirement in s 151(1) as permitting a pipeline to have been constructed and to have begun operation, including to haul natural gas (e.g. for testing and initial filling), before an application for a 15 year no-coverage determination may be validly made.

2.9 However, s 151(1) does not permit an application to be validly made where the pipeline has been used to haul natural gas for a fee charged to a user of the pipeline or a consumer of natural gas, that is paid either directly or indirectly to the service provider.

Council's view: Commissioning date

2.10 The Council considers that the NGI was commissioned on 1 July 2023, within the meaning of s 12 of the WA Gas Law. As the Application was made on 23 June 2023, the Council is satisfied that the Application was validly made before the NGI was commissioned.

Greenfields pipeline project

2.11 Pursuant to s 151(1) of the WA Gas Law, if a greenfields pipeline project is proposed, or has commenced, the service provider may, before the pipeline is commissioned, apply for a determination exempting the pipeline from being a covered pipeline (i.e. a 15 year no-coverage determination).

2.12 There are 3 limbs of the definition of a greenfields pipeline project as set out in s 149 of the WA Gas Law:

Greenfields pipeline project means a project for the construction of:

(a) *a pipeline that is to be structurally separate from any existing pipeline (whether or not it is to traverse a route different from the route of an existing pipeline); or*

(b) *a major extension to an existing pipeline that is not a covered pipeline; or*

(c) *a major extension to a covered pipeline by means of which light regulation services are provided if that extension is exempted by the AER under section 19.*

2.13 The Council must be satisfied that a project meets at least one limb of the definition in order to be satisfied it is a greenfields pipeline project.

2.14 In the Application, APA NGI claims that the NGI is a greenfields pipeline project because it satisfies limb (a) of the definition in s 149 of the WA Gas Law. As explained below, the Council is satisfied that the NGI is a greenfields pipeline project because it satisfies limb (a). As such it is not necessary for the Council to consider whether the NGI satisfies limbs (b) or (c).

Structurally separate (limb (a))

APA NGI Application

2.15 APA NGI claims that the NGI is structurally separate from any existing pipeline and therefore is a 'greenfields pipeline project within the meaning of s 149(a) of the WA Gas Law, for the purposes of a no-coverage determination', for the following reasons:[20]

- the NGI will be licensed by a new Pipeline Licence issued under the *Petroleum Pipelines Act 1969* (WA) which does not cover any other pipeline
- the NGI will be connected to the Dampier to Bunbury and Goldfields gas pipelines by way of hot tap connections[21], but will otherwise be structurally separate from both, and

[20] APA NGI, Application, p 8.

[21] For further information on the method of connection 'hot tap' please see *Using Hot Taps For In Service Pipeline Connections*, USA EPA.

- the NGI carries gas from Eradu to Wildara, end points that are distinct from those of other pipelines, including the connected Goldfields pipeline which runs from gas fields in the Carnarvon Basin and the North West Shelf to the Goldfields-Esperance region. APA NGI notes that the Council has previously found that where two pipelines carry gas to or from different locations this will support that there is structural separation between the two.[22]

Council's assessment

2.16 The term 'structurally separate' is not defined in the WA Gas Law or WA Gas Rules, nor is the term (or either of the individual words, or a derivation of those words) defined in the *Interpretation Act 1984* (WA).

2.17 In considering whether the NGI satisfies limb (a) the Council has considered the meaning of these words and had regard to their statutory context and purpose. Though not determinative, the Council has also had regard to its previous recommendation in respect of the Comet Ridge to Wallumbilla Pipeline Loop (CRWPL recommendation).[23]

2.18 The Council must assess whether the NGI is structurally separate from any existing pipeline based on the particular facts of the case. This may involve balancing potentially conflicting factors.

2.19 The Council considers that the following factors could indicate that the NGI forms part of a larger network of gas pipelines and is not structurally separate from any existing pipeline:

(a) The NGI is physically connected to the Dampier to Bunbury pipeline (owned by AGIG), and at the other end to the Goldfields pipeline (owned by the APA Group),[24] forming part of a larger network across Western Australia. APA NGI regards the NGI as the missing link for gas infrastructure in Western Australia, creating an interconnected gas pipeline network covering 2,690 km from north to south and west to east.[25]

(b) The NGI increases the capacity of the Goldfields pipeline. At the point of connection with the NGI, the capacity of the Goldfields pipeline increases by 38 TJ/d in a northerly direction and 38 TJ/d south.

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22 National Competition Council (NCC, Comet Ridge), *Comet Ridge to Wallumbilla Pipeline Loop - 15 year no-coverage determination Final recommendation*, 28 April 2015, 2.50.

23 NCC, *Comet Ridge*, 28 April 2015, chapter 4.

24 At the time of the Application the Goldfields Gas Pipeline was 88.2% owned by APA Group, but on 23 August 2023 the APA Group announced the purchase of the remaining share from Alinta. (APA, ASX Release, *Acquisition of Alinta Energy Pilbara and $750 million equity raising*, 23 August 2023, accessed 24 August 2023, p3.)

25 APA Media Release, Northern Goldfields Interconnect Pipeline officially opened, creating an interconnected WA gas grid, 28 July 2023, accessed 8 September 2023.

2.20 However, the following factors support the contention that the NGI is structurally separate from any existing pipeline:

(a) The NGI is a major piece of infrastructure in its own right; at 580 km long.

(b) The Council said in the CRWPL recommendation that 'where two pipelines carry gas to or from different locations this would support a claim of structural separation'.[26] The NGI is designed to transport gas from the Perth Basin to the mid west and Goldfields regions. In contrast, the Goldfields pipeline is designed to transport gas from the northern gas fields to the Goldfields region.

(c) Unlike the laterals that feed off the Goldfields pipeline and are thus dependent on it, the NGI feeds off the Dampier to Bunbury pipeline and feeds into the Goldfields pipeline. While the NGI is designed to work with the Goldfields pipeline (and indeed most of APA NGI's customers will actually be supplied via the Goldfields pipeline), operationally the NGI is not dependent on the Goldfields pipeline as the NGI can supply customers in the mid west region independently of the Goldfields pipeline. While the NGI is dependent on the Dampier to Bunbury pipeline, these pipelines are owned by different entities.[27]

(d) The NGI has separate meters, valves and compressor stations, is separately licenced by the Department of Mines, Industry Regulation and Safety[28], and is separately reported in the Gas Bulletin Board by the Australian Energy Market Operator.[29]

(e) Although the NGI and the Mid West gas pipelines appear to share the same route for the majority of the length of the Mid West Pipeline, they are otherwise separate, with separate connection points, separate compression and scrubber stations, separate licencing and separate ownership.

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26 NCC, *Comet Ridge*, 28 April 2015, 28 April 2015, p 9.

27 In the Council's view, different ownership (and therefore control) of two pipelines may support the notion that those pipelines are structurally separate. If those pipelines were not structurally separate, one may be considered to be an extension of the other (e.g. the NGI may be considered to be an extension of the Dampier to Bunbury Natural Gas Pipeline). It would be unusual for a pipeline extension to be undertaken by a different entity to the owner of the pipeline, unless it was through a gifting arrangement, where ownership and control is transferred to the existing pipeline owner. There is no evidence of any such arrangement.

28 Government of Western Australia, Petroleum Pipelines Act 1969, section 10; Grant of licence PL 129, Northern Goldfields Interconnect Pipeline, issued on 10 March 2022.

29 See Reports for example AEMO website, Reports, *Actual Flows*. Note the NGI is grouped with Mid West pipeline on AEMO's live bulletin board, https://gbbwa.aemo.com.au/#home, accessed 12 September 2023.

2.21 The Council considers that the factors supporting the contention that the NGI is structurally separate are more persuasive than the matters referred to above that may indicate that the NGI is not structurally separate and is ultimately satisfied that the NGI is structurally separate for the purposes of the definition of 'greenfields pipeline project' in s 149 of the WA Gas Law.

Council's view: Greenfields pipeline project

2.22 The Council considers that the NGI is a greenfields pipeline project on the basis that it is structurally separate from any existing pipelines (limb (a)).

Initial classification decision and relevant Minister

2.23 If the pipeline, the subject of a 15 year no-coverage application, is not an international pipeline, the Council must decide whether the pipeline is a transmission pipeline or a distribution pipeline. In classifying the pipeline as either a transmission or a distribution pipeline, the Council must determine whether it is also a cross boundary pipeline (s 155(1), (2)).

2.24 The pipeline classification criterion is set out in s 13 of the WA Gas Law:

> *(1) The pipeline classification criterion is whether the primary function of the pipeline is to –*
>
> *(a) reticulate gas within a market (which is the primary function of a distribution pipeline); or*
>
> *(b) convey gas to a market (which is the primary function of a transmission pipeline).*
>
> *(2) Without limiting subsection (1), in determining the primary function of the pipeline, regard must also be had to whether the characteristics of the pipeline are those of a transmission pipeline or distribution pipeline having regard to –*
>
> *(a) the characteristics and classification of, as the case requires, an old scheme transmission pipeline or an old scheme distribution pipeline;*
>
> *(b) the characteristics of, as the case requires, a transmission pipeline or a distribution pipeline classified under this Law;*
>
> *(c) the characteristics and classification of pipelines specified in the Rules (if any);*
>
> *(d) the diameter of the pipeline;*
>
> *(e) the pressure at which the pipeline is or will be designed to operate;*
>
> *(f) the number of points at which gas can or will be injected into the pipeline;*
>
> *(g) the extent of the area served or to be served by the pipeline;*
>
> *(h) the pipeline's linear or dendritic configuration.*

2.25 If the Council classifies the pipeline as a (s 155(2)):

(a) transmission pipeline, it must determine whether the transmission pipeline is also a cross boundary transmission pipeline, or

(b) distribution pipeline, it must determine whether the distribution pipeline is also a cross boundary distribution pipeline.[30]

2.26 If a pipeline is not a cross boundary pipeline, it will be situated wholly within a participating jurisdiction. Relevantly, if the Council determines the pipeline is:

(a) a transmission pipeline situated wholly within a participating jurisdiction, the relevant Minister is the designated Minister, and

(b) a distribution pipeline situated wholly within a participating jurisdiction, the relevant Minister is the Minister of the participating jurisdiction.

International or cross-boundary

2.27 The NGI is situated wholly within Western Australia. It is not an international pipeline or a cross-boundary pipeline.

APA NGI Application

2.28 APA NGI submits that the NGI should be classified as a transmission pipeline having regard to the factors listed in s 13(2) of the WA Gas Law, as follows:

- The NGI has no current classification status under the WA Gas Law or National Gas law: (s 13(2)(a)-(c)).
- The NGI has an external diameter of 300 mm, its initial design capacity is 76 TJ/d and its maximum operating pressure is 15.3 MPa (s 13(2)(d)-(e).
- The length of the NGI (approximately 580 km) is consistent with other pipelines that are classified by the NCC as transmission pipelines.
- The NGI conveys gas from one point to another, in a single direction (s 13(2)(f)).
- No part of the NGI is used for the reticulation of gas within a market. The primary function of the NGI is to convey gas to industrial customers located in the mid west and Goldfields regions.[31]

Council's assessment

2.29 As a new pipeline, the NGI has no current classification status under the WA Gas Law.

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30 A cross boundary transmission or distribution pipeline is a transmission or distribution pipeline that is situated in the jurisdictional areas of 2 or more participating jurisdictions. See s 2(1) of the WA Gas Law.

31 APA NGI, Application, p 7.

2.30 The Council accepts that the NGI's primary function is to convey gas from a source on the west coast to markets in the mid west and Goldfields regions. Although APA NGI expects in the future for the NGI to have a number of lateral pipelines feeding industrial customers, the Council expects this would be a relatively small number compared to a reticulated system or network served by a distribution pipeline which typically has thousands of customers.

2.31 The view that the NGI is a transmission pipeline is supported by the other factors listed:

- It is primarily a linear pipeline rather than dendritic.[32] Its linear nature is illustrated by its length, which at 580 km is the third longest in Western Australia after the Dampier to Bunbury and Goldfields pipelines. There are over 40 other smaller pipelines classified as transmission pipelines in Western Australia with lengths ranging from 445 km (Parmelia Gas Pipeline) to others less than 50 km.[33]
- It has a diameter of 300 mm, which is within the range of transmission pipelines. The diameters of transmission pipelines vary widely in Western Australia; the largest - Dampier to Bunbury - is 660 mm but many, such as Mid West, Telfer, Kambalda to Esperance and Nifty, are from 150 to 250 mm. Most distribution pipes by contrast have a diameter of 40–100 mm.[34]
- It has capacity of 76 TJ/d, which is within the range of transmission pipelines in Western Australia, indeed larger than most – for example, Parmelia 70 TJ/day, Telfer 29 TJ/day, Mid West 20 TJ/day and Eastern Goldfields 20.6 TJ/day.
- The NGI's maximum operating pressure of 15.3 MPa is well above the threshold of 1.9 MPa above which the Western Australian Department of Mines, Industry Regulation and Safety licenses major gas transmission pipelines.[35] Most transmission pipelines operate at around or less than 10 MPa.

Council's view: Pipeline classification

2.32 The Council considers that the NGI should be classified as a transmission pipeline.

Relevant Minister

2.33 The relevant Minister for the purposes of the no-coverage determination depends on the classification of the pipeline and whether or not it is a cross boundary pipeline.

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32 Dendritic means having a branched structure.

33 AEMC, Gas pipeline register, accessed 9 October 2023.

34 AEMC, Gas pipeline register, accessed 21 September 2023.

35 WA Government, Gas industry, https://www.wa.gov.au/organisation/energy-policy-wa/gas-industry, accessed 4 October 2023.

2.34 As discussed above, the Council considers that the NGI should be classified as a transmission pipeline and is not an international or a cross boundary pipeline.

2.35 Under s 2(1) of the WA Gas Law, for a transmission pipeline wholly within a participating jurisdiction (i.e. not an international or a cross boundary pipeline), the 'relevant Minister' is the 'designated Minister,' which is in turn defined in s 9 of the WA Gas Access Act as 'the Minister to whom the administration of this Act has been committed'.

2.36 The WA Gas Access Act is administered by the Minister for Mines and Petroleum; Energy; Hydrogen Industry; Industrial Relations in Western Australia, the Hon. W Johnston MLA.[36]

Council's recommendation: Relevant Minister

2.37 The Council considers that the relevant Minister for the purposes of the Application is the Hon W Johnston MLA, Minister for Mines and Petroleum; Energy; Hydrogen Industry; Industrial Relations in Western Australia.

[36] WA Government, Acts with Administering Portfolios and Public Sector Agencies, accessed 4 October 2023.

3 Criterion (a)

3.1 The Council must assess whether:

> *access (or increased access) to pipeline services provided by means of the pipeline would promote a material increase in competition in at least 1 market (whether or not in Australia), other than the market for the pipeline services provided by means of the pipeline.*

The Application

3.2 APA NGI identified one market where it considered there may be potential for regulation of the NGI to affect competition.

> *This is the market for supply of energy fuels (including natural gas) to industrial customers in the mid west and Goldfields regions of Western Australia.*

3.3 APA NGI views this market as including:

(a) at least the upstream production and sale of natural gas to domestic wholesale customers in the mid west and Goldfield regions. Suppliers would include at least any gas producers in the Perth and Carnarvon basins which are within the scope of feasible interconnection with the NGI, and

(b) suppliers of alternative fuels including diesel and domestic liquefied natural gas (LNG) for power generation at mining, mineral processing and other industrial sites.[37]

3.4 APA NGI submits that it is not necessary to precisely define the geographic boundaries of the dependent market and that, even on the narrowest possible geographic definition (i.e. defining the market by reference to the location of customers expected to use the NGI – the mid west and Goldfields regions), there is no likely promotion of competition in that market. APA NGI also contends that the downstream global LNG market and the regulated retail market for the supply of gas to small customers in the Kalgoorlie-Boulder region are not relevant to the Application.[38]

3.5 APA NGI submits that the dependent market identified in the Application is separate from the market in which the pipeline services provided by way of the NGI will be provided. While the 'markets' in which the production of gas, the sale of gas to downstream domestic customers, the transportation of gas, LNG production and the sale of LNG gas occur are dependent, these are functionally and economically separate activities.[39]

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37 APA NGI, Application, pp 24-25.

38 APA NGI, Application, p 25.

39 APA NGI, Application, p 25.

3.6 APA NGI submits that, in relation to the NGI, it has neither the incentive nor the ability to use any market power to adversely affect competition in any dependent market, for the following reasons:

(a) APA NGI will be constrained by other transportation options available to shippers. Potential customers continue to have a range of options for transporting energy fuels to their facilities, particularly for smaller industrial and mining customers where trucking of diesel and LNG, potentially in combination with on-site renewable generation, is likely to be a substitute for pipeline transport. The availability of these options will impose a meaningful competitive constraint on the NGI and continues to constrain APA Group in its negotiations with prospective customers for transportation service.

(b) APA NGI has no incentive to act in a way that would be damaging to upstream or downstream competition. APA NGI will not be vertically integrated with any upstream or downstream operations and therefore has no incentive to hinder access by any participant in these upstream or downstream markets or interest in conferring a competitive advantage on any user of the NGI. Rather, APA NGI's incentive will be to ensure maximum utilisation of the NGI by providing open access to all potential users.

(c) APA NGI has an incentive to provide access on terms which reflect the outcomes of workable competition. As APA NGI is not vertically integrated and expects to have spare capacity in the short to medium term, its incentives are likely to be aligned with the promotion of competition in dependent markets.

(d) Open access is assured through the obligations on non-scheme pipelines, which include negotiating in good faith, not hindering access, and publishing prescribed information. Even if there were incentives for APA to deny or restrict access to the NGI, it would be prevented from doing so.

(e) The relevant dependent market, being the wholesale supply of gas in Western Australia and more generally the supply of energy fuels to industrial customers, is already highly competitive. Competition is supported by structural features of the dependent market, including very large gas reserves available and a large number of producers required to supply into the domestic market, which will be unaffected by regulation of the NGI.

(f) Any difference in transmission costs is not material to upstream or downstream competition. It is not clear that a regulated reference tariff would necessarily be lower than those that will be offered commercially by APA NGI, and gas transmission costs are a very small component of the total costs of gas for downstream customers.

(g) Regulation of the NGI as a scheme pipeline would not promote a material increase in competition in any relevant market. The market for supply of energy fuels to industrial customers in Western Australia will continue to be highly competitive, with or without regulation of the NGI as a scheme pipeline.[40]

Council's assessment

Identify the dependent market(s)

3.7 The Council has considered the market identified by APA NGI. However, we consider a more appropriate definition to be:

- the market for gas produced in the Perth and Carnarvon Basins
- the market for energy fuels in the mid west and Goldfields regions
- the market for mineral products and mineral processing in the mid west and Goldfields regions.

3.8 There are other dependent markets, including markets for gas storage, gas retail and mining tenements. However, the Council considers that access (or increased access) to the NGI would have limited impact on competition in these markets relative to the markets identified above and therefore has not considered those markets in any detail for the purposes of this Final Recommendation.

Are the dependent market(s) separate from the market in which the pipeline services will be provided?

3.9 In Chapter 4 the Council accepts the pipeline services provided by means of the NGI will be transportation services taking gas from the Perth and Carnarvon Basins to customers in the mid west and Goldfields regions.

3.10 The Council considers that the above dependent markets are functionally and economically separate activities to the market in which pipeline services will be provided by the NGI. Therefore these markets are, in terms of criterion (a), 'other than the market for the pipeline services provided by means of the pipeline'.

Would access (or increased access) to the NGI promote a material increase in competition in the identified dependent markets?

3.11 The Council will firstly consider APA NGI's argument that even if it was seen to have some degree of market power, it will have neither the incentive nor the ability to use it to adversely affect competition in any dependent market.

3.12 The Council will then consider the impact of access (or increased access) on competition in the dependent markets identified more broadly and assess whether access (or increased access) would materially promote competition in those markets.

[40] APA NGI, Application, pp 27-30.

Market power and incentives

3.13 The Council has previously stated that whether competition will be materially enhanced as a result of access (or increased access) depends critically on the extent to which the incumbent service provider has market power and the ability and incentive to use it to adversely affect competition in a dependent market.[41] If the provider has market power, it is more likely to limit access and set higher prices than if it is subject to full coverage with an access arrangement accepted by the regulator.

Supply of alternative energy fuels in the mid west or Goldfields regions

3.14 APA NGI claims that it will not be in a position to exercise market power given the alternative transportation options available to customers.[42] It notes that there are numerous alternatives to acquiring natural gas via pipeline infrastructure, including trucked diesel, trucked LNG, connection to the SWIS (where applicable) and increasingly on-site or grid-connected renewable generation.[43]

3.15 As noted by APA NGI, trucked diesel and LNG tend to be particularly close substitutes for smaller industrial customers. [44]

3.16 Renewable energy is providing an increasingly important source of competition to gas, as costs decrease over time and environmental factors become more important. However, the relationship between renewable energy and gas is complex. Where gas is currently available in the Goldfields region, gas has been used for base load generation. However, with the increasing use of renewable energy, gas has started to move from being used to generate base load energy to providing a firming service. Firming services consume less gas on average but have high peaking requirements. Therefore, while the demand for pipe capacity (i.e. peak capacity) may increase over time, average throughput may decrease.[45]

3.17 Some energy users in the southern part of the Goldfields have the option of electricity from the South West Interconnected System.

3.18 Further, the Mid West Pipeline has some limited capacity to provide gas to the mid west region.

3.19 The Council accepts that as there are alternative supplies of energy APA NGI has neither the incentive nor ability to use its limited market power to adversely affect competition in any dependent market.

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41 National Competition Council, *Gas Guide, A guide to the functions and the powers of the national Competition Council under the National Gas Law*, October 2013, version 1.0, para 3.65. (NCC, Gas Guide)

42 APA NGI, Application, p 26.

43 APA NGI, Application, p 10; SWIS is the South West Interconnected System for electricity distribution.

44 APA NGI, Application, p 16.

45 APA Group presentation, *Acquisition of Alinta Energy Pilbara and equity raising*, 23 August 2023, slide 20. (APA Group presentation, *Acquisition,* August 2023)

Spare capacity

3.20 APA NGI claims that it has an incentive to provide access on terms which reflect the outcomes of workable competition in dependent markets, as it expects to have spare capacity on the NGI in the short to medium term.

3.21 Capacity utilisation is an important factor in understanding a business's incentives to provide access on reasonable terms and conditions. In particular, where there are large fixed costs, which is typical for infrastructure services such as a gas pipeline, the additional cost of a service is marginal compared to the additional revenue that can be gained. Therefore, there are typically strong financial incentives for pipeline service providers to sell the majority of their pipeline capacity.

3.22 APA NGI is currently selling capacity (take or pay) based on a Maximum Daily Quantity basis, rather than on throughput. The transport of gas (throughput) has a minor operational (marginal) cost compared to the large fixed costs incurred by APA NGI (such as financing the approximate $500 million investment in the construction of the pipeline).[46] Pricing on the basis of MDQ is reflective of the large fixed costs as opposed to the relatively low marginal costs.

3.23 Previously the only way of conveying gas to the mid west and Goldfields region was through the Goldfields or Mid West Pipelines, which are both at (or near) full contractual capacity. However, the NGI provides significant additional capacity of 76 TJ/d to the mid west and Goldfields regions. Specifically, it adds at least 37% to the capacity of Goldfields pipeline in the Goldfields region (202.5 TJ/d).[47]

3.24 Notwithstanding a capacity of 76 TJ/d on the NGI, current throughput is around 6 TJ/d (see Figure 2 in Chapter 4). APA NGI expects its contracted demand to reach 13 TJ/d by the end of 2023-24, with demand beyond this timeframe being highly dependent on customers finalising their own investment projects.[48]

3.25 Chapter 4 discusses future impacts on demand for gas in the mid west and Goldfields regions. In summary, the Council expects that over time the NGI's contracted capacity will increase. However, while it is not clear, if, or when the NGI would approach full capacity, the Council considers that there will be significant spare capacity on the NGI for at least the majority of the 15 years under consideration.

3.26 The Council accepts that as there will be spare capacity on the NGI, at least for that period, APA NGI will have neither the incentive nor ability to use any market power to adversely affect competition in any dependent market.

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46 Appendix E, APA supplementary response, p 1.

47 This is the sum of 109 TJ/d in the scheme section of the Mainline and 93.5 TJ/d in the non-scheme section. APA, Goldfields Gas Pipeline System, accessed 20 September 2023.

With APA Group having customers in the northern section of the Goldfields pipeline, the practical capacity in the Goldfields region is even less than the nameplate figure of 202.5 TJ/d. AEMO's GBB-EndUserCompsumption-Yearly-2023 report, accessed 2 October, shows consumption into the 'Goldfields' region ranged from 90 to 120 TJ/d, across the 2023, year to date.

48 Appendix E, APA supplementary response, p 4.

Coverage v no-coverage: open access

3.27 In considering the term 'access', APA NGI submits that the relevant comparison is between regulated access to the pipeline and unregulated access, and that 'no access' is an entirely unrealistic counterfactual.[49] APA NGI submits that there will be open access to the NGI, with or without scheme (i.e. covered) pipeline regulation and that open access is assured through the obligations on non-scheme (uncovered) pipelines to potential users, including negotiating in good faith, not hindering access, and publishing prescribed information.[50]

3.28 The Council notes that coverage involves regulation by the Economic Regulatory Authority (ERA) through a full access arrangement that provides for price or revenue regulation.[51] Coverage also imposes duties on the pipeline service provider not to prevent or hinder the access of another person to the pipeline service.[52]

3.29 The WA Gas Law provides certain statutory rights of access for uncovered pipelines (i.e. non-scheme pipelines) and assistance for potential users. Specifically, the WA Gas Law and WA Gas Rules provide a right for third parties to seek access to an uncovered pipeline and obligations for the prospective user and service provider to negotiate in good faith about whether access can be granted and, if so, the terms and conditions.[53] Other mechanisms helping to ensure access on reasonable terms are set out in Part 23 of the WA Gas Rules,[54] including:

- information disclosure requirements such as reference prices and financial information[55], and
- a right to arbitration of access disputes, using a pool of commercial arbitrators.[56]

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49 APA NGI, Application, p 21-22.

50 APA NGI, Application, p 28.

51 Covered pipelines in Western Australia may be subject to either full or light regulation. Full regulation requires the regulator to approve or determine an access arrangement including prices and other terms of access. Light regulation involves transparency and publication requirements, but the operator can set its own prices.

Light regulation and non-scheme regulation are very similar. (National Competition Council, *NCC submission to AEMC draft report: Review into the scope of economic regulation applied to covered pipelines (GPR0004)*, 10 April 2018, 3.3).

52 WA Gas Law, s 132-133.

53 WA Gas Law s 216G; WA Gas Rules – Division 3 - Access requests and negotiations.

54 WA accepted and retained an amendment to the WA Gas Rules that inserted Part 23 in 2017.

55 WA Gas Rules, r 552-557. The Council notes that on 2 August 2023 the ERA granted a Category 3 exemption for the NGI. This makes APA NGI exempt from the obligation to publish information under Division 2 of Part 23 of the WA Gas Rules, other than pipeline information and pipeline service information. This exemption was granted because the NGI's current level of throughput is less than 10 TJ/d. (ERA, Exemption application – Northern Goldfields Interconnect (PL 129), 2 August 2023, accessed 4 October 2023.)
The exemption will be removed if, and when throughput (over the preceding 24 months) increases above 10 TJ/d. We note that APA NGI has indicated that it expects to sell 13 TJ/d by 2024.

56 WA Gas Law, Chapter 6A, WA Gas Rules, r 563-584.

3.30 The Council accepts that, if a pipeline is not covered, it is still subject to some regulatory requirements under the WA Gas Law and the WA Gas Rules. However, the Council notes that those requirements are less onerous than for covered pipelines. In particular, the Council notes that the level of access required to be provided to potential customers of non-scheme pipelines under Part 23 of the WA Gas Rules is generally considered to be lower than access under a full access arrangement, where price is set by the regulator.

3.31 Nevertheless, the Council accepts APA NGI's submission that some level of access to the NGI for potential customers will be available if the pipeline is uncovered.

Coverage v no-coverage: price difference

3.32 As set out above, the Council accepts that, due to the availability of alternative energy supply, spare capacity on the NGI and the fact that some level of access would be available if the pipeline is uncovered, APA NGI has no ability or incentive to use its market power to adversely affect competition in any dependent market.

3.33 However, one of the largest potential differences between the NGI being a covered or non-covered pipeline relates to the price charged by APA NGI to its customers for the pipeline. This section specifically discusses this issue.

3.34 APA NGI claims that any difference in gas transmission tariffs due to coverage is not material to upstream or downstream competition, as it is not clear that a regulated reference tariff would necessarily be lower than those that will be offered commercially by APA NGI.[57] APA NGI has published a price on its website at $2.9371 TJ/d (maximum daily quality).[58]

3.35 For a pipeline subject to full regulation in Western Australia the ERA will determine the terms and conditions, including regulated prices, on which third parties may access the pipeline services for, generally, five years.[59] The ERA determines regulated prices on the basis of the efficient costs of the service provider, using a building block model.[60]

3.36 Within this general framework there are various inputs that the regulator will be required to determine, such as:

- remaining useful life of the assets and associated depreciation[61]

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57 APA NGI, Application, p 29.

58 APA, Tariffs and terms, accessed 9 October 2023.

59 The current access arrangement period used by the ERA is 5 years for both the Goldfields and Dampier to Bunbury gas pipelines.

60 WA Gas Law, Parts 8, 9; WA Gas Rules, r 76.

61 The WA Gas Rules r 89(1)(a)) specifically allows for prices to vary over time in a way that promotes efficient growth in the market for the reference services.

This may involve … *deferral of a substantial proportion of the depreciation, particularly where: (a) the present market for pipeline services is relatively immature; and (b) the reference tariffs have been calculated on the assumption of significant market growth; and (c) the pipeline has been designed and constructed so as to accommodate future growth in demand.* (WA Gas Rules, r 89(2)).

- appropriate levels of risk and associated rate of return
- level of forecast demand
- level of efficient operating and capital expenditure
- tax treatment
- where appropriate, mechanisms to take into account situations where there are large under recoveries of revenue (i.e. losses) in early years, with an expectation of strong growth in demand in later years (for example capitalisation of losses),
- whether it is appropriate to have a revenue cap or a price cap, and
- ultimately, revenue and price.

3.37 An example of the difference that can result in prices between a covered and non-covered pipeline is the Goldfields pipeline. The ERA has determined a regulated price for the covered section that is less than a third the level of the uncovered price.[62] However, the Council notes that comparison with the Goldfields pipeline is not an appropriate guide for any price difference that may occur due to the NGI being covered or uncovered. There are significant differences between the two pipelines for example the Goldfields pipeline is currently at full capacity, while the NGI has spare capacity.

3.38 Any pricing determination undertaken by the ERA would require the ERA to determine each input as set out above. The Council considers there is a broad range of possible pricing outcomes. This range of possible outcomes includes pricing outcomes that are at or even above the current prices advertised by APA on its website. A key objective of the regulatory price determination is to set prices based on efficient costs so as to exclude excessive (monopoly) profits due to market power. We consider, however, that APA NGI has limited market power due to the availability of alternative energy supply, spare capacity on the NGI and the fact that some level of access would be available if the pipeline was uncovered.

3.39 In these circumstances, the Council accepts that it is not clear that a regulated price would necessarily be lower than a price offered by APA NGI without coverage.

Vertical integration

3.40 APA NGI claims that it has no incentive to act in a way that would be damaging to upstream or downstream competition and indeed as it is not vertically integrated its incentive is not to hinder access but to ensure maximum utilisation of the NGI.[63]

62 APA, Tariffs and terms, accessed 9 October 2023.

63 APA NGI, Application, Figure 2, p 27.

3.41 We note that the APA Group has some interests in energy generation. We also note that its stated aim is to diversify its business.[64] Of relevance, the Application submits that APA Group owns the Gruyere energy generation facility, which is a combined renewable and gas generation facility (see Appendix C).[65] The facility currently uses gas transported by the Goldfields, Murrin Murrin lateral and associated Eastern Goldfields and Yamarna pipelines[66] but does not purchase transport services from APA NGI.

3.42 APA NGI states that APA Group follows National Gas Law ring fencing requirements, which we understand to result in the Gruyere energy generation business being ring fenced from the transmission and network business.[67]

3.43 While the average daily gas used at the Gruyere (Yamarna) power station is confidential, the Council does note that the capacity of the Yamarna pipeline is 7.75 TD/d.[68] The Council considers that the pipeline's maximum capacity is small compared to the capacity of the NGI and Goldfields pipelines.

3.44 For present purposes it is unnecessary to determine whether or not APA NGI is vertically integrated. The Council accepts that APA NGI has no incentive to hinder access on the basis of any related interests in energy generation.

Impact of access (or increased access) on competition in dependent markets

Competition in the market for gas produced in the Perth and Carnarvon Basins

3.45 The Council considers that access (or increased access) to the NGI may benefit upstream gas producers, particularly in the Perth Basin, by giving them additional options for selling gas to customers further east through the NGI and then the Goldfields pipelines. Producers in the Carnarvon Basin will also have additional opportunities to access the region through the Dampier to Bunbury and NGI pipelines. This may allow expansion in production and sales, and improve efficiency by obtaining greater value from their resources.

3.46 However, we consider that the effects on competition in this dependent market from access (or increased access) of the NGI will be immaterial due to the following factors:

- The APA NGI would not have the incentive or ability to deny access, or set an excessively high price compared to a regulated price.
- The Council considers there to be some evidence that the market is already competitive, with a number of gas producers operating in Western Australia. Specifically in the Perth Basin, which is smaller but closer to the NGI than the Carnarvon Basin, there are several producers, with gas reserves of 1,570 PJ.

64 APA Group presentation, *Acquisition,* August 2023, slide 13.

65 APA NGI, Application, Figure 2, p 9.

66 APA, Eastern Goldfields Pipeline System, accessed 4 October 2023.

67 Appendix E, APA supplementary response, p 2.

68 APA, Eastern Goldfields Pipeline System, accessed 4 October 2023, (Yamarna Power Station).

3.47 The Council is not satisfied that access (or increased access) to the NGI will promote a material increase in competition in the market for gas produced in the Perth and Carnarvon Basins.

Competition in the market for energy fuels in the mid west or Goldfields regions

3.48 Access to the NGI impacts the supply of energy fuels in the mid west or Goldfields regions, increasing the options available for customers purchasing energy fuels. The addition to potential gas supplies in the region due to NGI is significant at 76 TJ/d.

3.49 However, we consider that the effects on competition in this dependent market from coverage of the NGI will be immaterial due to the following factors:

- The APA NGI would not have the incentive or ability to deny access, or set an excessively high price compared to a regulated price.
- APA NGI submits that the market is already competitive with a number of different entities providing a broad range of energy fuels that substitute for gas fired energy. This is supported by the significant increase in renewable energy options.

3.50 The Council is not satisfied that access (or increased access) to the NGI will promote a material increase in competition in the market for supply of energy fuels in the mid west or Goldfields regions.

Competition in the market for mineral products and mineral processing in the mid west or Goldfields regions

3.51 The Council considers that access to the NGI benefits miners as it provides them with additional options for generation of electricity and operation of processing plants.

3.52 We consider that the effects on competition in this dependent market from coverage of the NGI will be immaterial due to the following factors:

- The APA NGI would not have the incentive or ability to deny access, or set an excessively high price compared to a regulated price.
- The Council considers there is some evidence that the market is already competitive, with large numbers of miners operating in the mid west and Goldfields regions. (See Appendix D, additional information on the mining industry in Western Australia).

3.53 The Council is not satisfied that access (or increased access) to the NGI will promote a material increase in competition in the market for mineral products and mineral processing in the mid west or Goldfields regions.

Conclusion on criterion (a)

3.54 The Council does not consider criterion (a) is satisfied.

4 Criterion (b)

4.1 The Council must assess whether:

> *it would be uneconomic for anyone to develop another pipeline to provide the pipeline services provided by means of the pipeline.*

4.2 Criterion (b) is in similar terms to a criterion previously found in Part IIIA of the CCA.[69] The High Court in *Pilbara HCA*[70] considered how this criterion should be interpreted. It held that the provision 'is to be read as requiring the decision maker to be satisfied that there is not anyone for whom it would be profitable to develop another facility' (at [77]). Further, the High Court held that the term 'anyone' includes the owner of the facility (or pipeline) in question (at [105]).

4.3 The High Court considered that whether it would be profitable for someone to develop another facility to provide the service requires 'that the person could reasonably expect to obtain a sufficient return on capital that would be employed in developing that facility' (at [104]). The Gas Guide notes that if someone could profitably develop an alternative pipeline as part of a larger project (for example a mine development), it would be necessary to consider the whole project in deciding whether the development of an alternative pipeline, as part of that larger project, would provide a sufficient rate of return.[71]

The Application

4.4 APA NGI submits that in light of the existing and potential pipelines in the mid west and Goldfields region which are able to provide the same service or services as the NGI, the Council cannot be satisfied that it would be uneconomic for anyone to develop another pipeline to provide the same services as the NGI.

4.5 In the Application, APA NGI notes that it interprets criterion (b) as follows:

- 'uneconomic' means unprofitable
- 'anyone' includes the owner of the facility under consideration
- 'another pipeline' need not be an entirely new pipeline or duplicate the pipeline under consideration.[72]

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69 This criterion was previously found in ss 44G(2)(b) (relating to the Council's recommendation) and 44H(4)(b) (relating to the Minister's declaration) of the CCA. The previous criterion used the word 'uneconomical' and criterion (b) uses 'economic', although the Australian Competition Tribunal in *Re Duke Eastern Gas Pipeline Pty Ltd* (2001) ATPR 41-821 noted that nothing turned upon this difference in language (at [58]).

70 *The Pilbara Infrastructure Pty Limited v Australian Competition Tribunal* [2012] HCA 36; (2012) 290 ALR 750.

71 NCC, *Gas Guide,* para 3.83.

72 APA NGI, Application, pp 31-32, citing High Court judgements, Pilbara HC and the NCC's Gas Guide in support.

APA NGI: Pipeline services provided by means of the pipeline

4.6 APA NGI submits that the pipeline services provided by means of the NGI will be transportation services taking gas from the Perth and Carnarvon Basins to customers in the mid west and Goldfields regions.[73]

4.7 The relevant question for criterion (b), APA NGI submits, is whether it would be uneconomic to develop another pipeline to provide the services that, in broad terms, will be available on the NGI i.e. transportation of gas from the Perth and Carnarvon Basin to customers in the mid west and Goldfields regions of Western Australia.[74]

APA NGI: Developing another pipeline

4.8 APA NGI submits that there are multiple feasible options by which third parties can develop another pipeline to provide the services provided by means of the NGI that may be profitable for some parties, including:

- developing another open access pipeline like the NGI offering transportation of gas from the Perth Basin to points along the NGI
- extending or augmenting an existing open access pipeline, such as the Mid West Pipeline, to provide the same services, and
- (for a large mining or industrial customer) developing their own pipeline to transport gas from the Perth Basin to one or more of its sites along the route of the NGI or in the Goldfields region.[75]

APA NGI: Profitability of developing another pipeline

4.9 APA NGI submits that the profitability of developing another pipeline to provide the pipeline services provided by means of the NGI will ultimately depend on expected demand from mining and industrial customers in the mid west and Goldfields regions.[76] Although the cost of developing a pipeline with the capacity and geographic reach of the NGI would be substantial, the capital outlay is likely to be recoverable over the life of the investment.

4.10 APA NGI notes that the NGI is expected to be a profitable investment for APA even though it is largely duplicative of the existing Mid West Pipeline, indicating that where a pipeline already exists to transport gas to customers in the mid west and Goldfields regions, it may still be profitable to develop another pipeline.[77]

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73 APA NGI, Application, p 32.

74 APA NGI, Application p 32.

75 APA NGI, Application pp 32-33.

76 APA NGI, Application p 33.

77 APA NGI, Application p 33.

4.11 APA NGI points to evidence of existing and planned investment in pipeline infrastructure to demonstrate the likely profitability of construction of pipelines to serve the anticipated growth in demand from customers in the mid west and Goldfields regions.[78] APA NGI's provides the example of AGI's Mid West Shared Infrastructure Project, which is discussed under the heading of *Mindax / AGIG infrastructure corridor*.[79]

4.12 APA NGI submits that the existence of the Mid West Pipeline, which provides pipeline services akin to those provided on the NGI, means that where there is demand for additional services beyond the current capacity or geographic reach of that pipeline, the cost of developing another pipeline to deliver these services is likely to be reduced. APA NGI submits that the incremental capital and operating costs required to extend the MWP to the interconnect with the GGP are likely to be much less than the cost of a full duplication of the NGI.[80]

Council's assessment

4.13 In considering criterion (b), the Council has considered whether it would be uneconomic to develop another pipeline to provide the pipeline services by means of the NGI within a broad geographic range given the interconnectivity of the main gas pipelines in Western Australia.

4.14 The Council accepts the pipeline services provided by means of the NGI will be transportation services taking gas from the Perth and Carnarvon Basins to customers in the mid west and Goldfields regions.

4.15 The Council has considered whether it would be profitable for anyone to:

- construct a new open access pipeline
- extend an existing open access pipeline, and
- construct a new pipeline as part of a broader project.

4.16 To distinguish between the construction of a new open access pipeline and the construction of a pipeline as part of a broader project, the Council has assumed that a new open access pipeline will not have any significant foundation customers.

4.17 In contrast, the Council has assumed that the construction of a pipeline as part of a broader project has the majority of its capacity contracted to one (or more) customer(s), for at least the next 15 years. While the actual legal relationship is not important, it may include the foundation customer owning the pipeline or agreeing to a long term contract with a partner.

78 APA NGI, Application p 33.

79 APA NGI, Application p 34.

80 APA NGI, Application p 37.

4.18 The Council agrees with APA NGI's submission that the profitability of another pipeline to provide the same services will depend on supply and demand factors over the coming years.

4.19 The remainder of this chapter discusses changes in demand and then the probability of constructing a new gas pipeline or extending a gas pipeline.

Changes in demand

4.20 The Council notes APA NGI's submission that the NGI was constructed as the next most efficient method to increase capacity to the Goldfields region now that the Goldfields pipeline (at its northern end) has reached full capacity.

> *The decision to build the NGI was made in response to an assessment of overall long-term customer demand in the Mid West, Goldfields and Kalgoorlie regions, which are considered to exceed the capacity of the GGP. APA assessed that the construction of the NGI could be achieved at a lower cost, and while also delivering other benefits to customers (such as access to diversity of supply), compared to expansion of the GGP.*[81]

4.21 The commencement of the NGI has a critical effect on the prospects for another pipeline. The NGI has been built on the basis of the potential increase in demand but at the same time may have pre-empted the opportunity for further supply to meet such demand.

4.22 Forecasting changes in demand for gas in the mid west and Goldfields regions over the next 15 years is complex due to competing pressures.

4.23 Factors suggesting a future increase in demand for gas in the mid west and Goldfields regions include:

- The expected expansion of mines and other industrial customers particularly for minerals such as lithium and vanadium associated with decarbonisation but including others such as iron ore and gold.[82] This could lead to a significant increase in energy needs in the medium term, a share of which could flow to gas. Indeed, a stated reason for the construction of the NGI is to service this increase in mining demand.
- Conversion of gas fired electricity generation from base load to firming. This is likely to increase the demand for pipeline capacity even if gas throughput remains static.[83]

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81 Appendix E, APA supplementary response, p 4.

82 NIEIR, *Economic and Commodity Forecasts for Western Australia to 2032*, August 2022. This report indicates production growth up to 2023 (base case) for iron ore p 29, alumina p 32, gold p 35, nickel p 38, zinc p 41, copper p 44, lithium spodumene concentrate p 47, lead p 49, and cobalt p 52.

83 APA presentation, *Acquisition*, August 2023, slides 67. *Significant growth expected in the supply of renewables while gas power generation transitions to a firming and reserve capacity role* and *Gas capacity forecast to increase to ensure security of supply for miners.* While the presentation relates to the Pilbara, this impacts are expected to be equally relevant to the Goldfields and mid west mines.

- Increases in electricity demand as mining companies convert diesel equipment and vehicles to electric.[84]

4.24 The key factor suggesting a future decrease in demand for gas is the increasing uptake of renewable energy such as solar and wind power due to:

- decreasing unit cost of renewable energy including battery technology
- Western Australia's target of net zero emissions of greenhouse gases by 2050[85]
- Australian Government's commitment to reducing its greenhouse gas emissions by 43% below 2005 levels by 2030 and achieving net zero emissions by 2050[86], and
- equivalent targets for some major mining companies.[87]

Demand for natural gas (short to medium term)

4.25 The NGI has capacity of 76 TJ/d. From 1 July to 8 November 2023, average deliveries from the NGI were 5.6 TJ/d, with APA NGI expecting this to increase to 13 TJ/d by the end of Financial Year 2024.[88]

4.26 The NGI effectively increases the capacity of the Goldfields Gas Pipeline in the Goldfields region. At the point of connection with the NGI, the capacity of the Goldfields pipeline increases by 38 TJ/d in a northerly direction and 38 TJ/d south.

4.27 The current level of demand for gas transport is insufficient to use the full capacity of the NGI. Indeed, currently there is significant spare capacity on the NGI.

4.28 The most recent Gas Statement of Opportunities does not have individual forecasts for regions but notes large increases in gas demand as a replacement for the retirement of coal fired generation. It also states that from 2022 to 2032, for the mineral processing sector, gas demand is forecast to increase at an average annual rate of 1.9%. In contrast, in the mining sector, gas demand is projected to decline at an average annual rate of 2.0%.[89]

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84 APA presentation, *Acquisition*, August 2023, slide 17-24. This shows a large decrease in emissions from displacement of diesel by electricity.

85 WA Government, Climate change legislation, accessed 26 September 2023.

86 Australian Government, DCCEEW, *Australia's emissions projections 2022*, December 2022, p 2.

87 For example, BHP's medium-term target to reduce operational GHG emissions by at least 30 per cent from FY2020 levels by FY2030, and long-term goal to achieve net zero operational GHG emissions by 2050. (BHP, *Our GHG emission reduction targets and goals*, accessed 4 October 2023).

88 Appendix E: APA supplementary information, p 4.

89 AEMO, *2022 Western Australia Gas Statement of Opportunities*, December 2022, p 29.

4.29 A significant uncertainty impacting the future of demand for gas is the uptake of renewable energy across the mid west and Goldfields regions. An example of increases in renewables is APA Group's investment in a solar array to supply electricity for the Gruyere gold mine (in the eastern Goldfields area). In 2022 the solar array was expected to achieve an annual renewable energy fraction of 10%.[90] In some other mining areas, renewable energy is targeted for over 50% of energy needs.[91]

4.30 As part of the uptake on renewables, the Council notes that gas usage for energy generation is likely to move away from base load (continuous generation) to firm generation (i.e. peak and reserve). While this may result in lower average throughput of gas pipelines, gas pipeline owners, including APA NGI, typically charge customers based on Maximum Daily Quantity (i.e. reserved capacity).[92]

4.31 The Council notes that APA's prices are a function of the reserved capacity, rather than average throughput, meaning that moving forward APA NGI's contracted capacity is likely to be significantly higher than the actual throughput of the pipeline. Therefore, over the medium term contracted capacity for the NGI is expected to increase faster than throughput.

Demand for natural gas (long term)

4.32 The gas pipeline industry has been raising concerns over the commercial longevity of gas pipelines to regulators where they note government policies of zero emissions by 2050 are likely to result in shorter economic lives for their pipelines (compared to the physical life of the pipeline of typically 70 years). For example, the Economic Regulatory Authority in 2021 determined the economic life of the Dampier to Bunbury pipeline to be finished by 2063 (i.e. around 40 years).[93] Similarly, APA Group in relation to its recently acquired Pilbara assets states that it expects the economic life of the gas pipelines in the Pilbara will be beyond 2050.[94]

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90 WA Government, DMIRS, *Case Study: Gold Fields' Agnew, Granny Smith and Gruyere mines*, September 2022, p 2.

91 For example, Liontown is seeking Net Zero emissions by 2034. Liontown, Fast charging towards a low carbon future, Kathleen Valley Lithium Project, November 2021, slide 7. Bellevue Gold, Macquarie Australia Conference, high-grade Bellevue Gold Project in WA, Building Australian's next major gold mine, May 2023, slide 7 (targeting up to 70-80% renewable energy).

As of early 2022, 10 Western Australian minerals mines are achieving between 10 and 55% of their annual electricity generation from renewable energy. WA Government, DMIRS, Fact Sheet Western Australian Minerals sector greenhouse gas emissions and energy use, September 2022, p 5.

92 APA, *tariffs and terms*, accessed 1 August 2023.

93 Up until the GGP's access arrangement for 2019-23, the ERA had allowed an economic life of 70 years for gas pipelines. The ERA's most recent decision on the DBNGP access arrangement brought forward the end of life for the pipeline to 2063. (ERA, *Final decision on proposed revisions to the Dampier to Bunbury Natural Gas Pipeline access arrangement 2021 to 2025*, 1 April 2021, p 359).

94 APA presentation, *Acquisition,* August 2023, slides 67. *Forecast increase in electricity demand and renewables capacity to 17TWh and ~5.1GW respectively by 2050, with supply expected to transition to become ~89% renewables and ~11% gas by 2050, with gas serving a critical firming and reserve capacity role.*

4.33 In relation to the NGI, APA NGI has provided an even shorter economic life, where it has stated that the expected economic life of the NGI pipeline is 18 years.[95]

4.34 As discussed above, in the medium term it is expected that gas will move from a base load product to a firming product. However, there is some uncertainty about the role of gas in the longer term as battery technology is likely to continue to develop, potentially replacing gas for firming. Batteries are not only improving the way they store energy, but are now also providing grid security services for electricity networks. For example, Hornsby and Torrens Island big batteries are now providing security functions in South Australia.[96] This reduces the need for electricity networks to operate with turbine technology (coal, gas, diesel or hydro). This illustrates that remote sites may have additional options in the future for firming services (and not just rely upon gas or diesel) over the next 10 to 15 years, adding further pressure on gas fired generation services in the long run.

4.35 There is clearly uncertainty regarding the long term production and consumption of gas in Australia and by extension in the mid west and Goldfields regions. Over the longer term, contracted capacity for the NGI is uncertain.

Profitability of constructing a new open access pipeline

4.36 In this section the Council discusses the profitability of a new open access gas pipeline being constructed (where there is no significant foundation customer).

4.37 In this context, an open access pipeline is a standalone investment that seeks to earn a rate of return on that investment. The focus for the owner of the pipeline is on the efficient construction of the pipeline and selling capacity.

4.38 With regard to constructing a new pipeline to service the mid west and Goldfields regions, there are a number of factors impacting on the profitability of a new open access pipeline, in particular:

- The construction of the NGI may have pre-empted future increases in demand.
- APA NGI is able to increase capacity on the NGI (via an additional compression station at the Yoweragabbie Scraper Station).[97]

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95 Appendix E, APA NGI supplementary response, p 4.

96 Hornsdale Power Reserve website, accessed on 20 September 2023. *Following this success, a 50 MW/64.5 MWh expansion was completed in September 2020. As part of the expansion the full 150 MW is being upgraded to include Tesla's Virtual Machine Mode, enabling the battery to provide inertia support services to the electricity grid.*

Energy Storage News, Andy Colthorpe, *AGL, Wartsila complete 250MW Torrens Island BESS project in South Australia*, 22 August 2023. *It is also the largest BESS in Australia which will provide synchronous inertia to the grid through the application of advanced inverter technology, Wärtsilä claimed. The vital grid service has been traditionally provided on grids around the world by the large rotating mass of thermal generators.*

97 APA NGI, Application, p 7.

- There is uncertainty regarding the long-term future demand for pipelined gas due to uncertainty in future investments in mining and mineral processing, impacts of net zero emissions policies, and the long-term role of gas as a firming product.

4.39 Given the above factors, the Council considers that it would be uneconomic for anyone to develop a new open access gas pipeline to provide the pipeline services provided by means of the NGI.

Profitability of extending an existing open access pipeline

4.40 APA has put forward that an existing open access pipeline might be extended to provide the services provided by means of the NGI. The only pipeline that could possibly be extended to provide the services provided by means of the NGI is the Mid West Pipeline.

4.41 The Council notes that, at the time APA NGI was making its decision on how to increase capacity into the Goldfields pipeline, it owned 50% of the Mid West Pipeline. As part of that process, the Council assumes that APA NGI reviewed the option to extend the Mid West Pipeline to the Goldfields pipeline, and subsequently chose an alternative option, namely to build the NGI.

4.42 The Council notes that the Mid West Pipeline has limited capacity at 10.6 TJ/d. Therefore, the economics of extending a small pipeline where there is limited ability to increase capacity are unlikely to be strong. Large fixed costs require large usage to drive the resulting cost and price down. Extending the Mid West Pipeline is unlikely to have the appropriate ratio of capacity to fixed expenditure. This assumption is supported by the fact that APA NGI chose to construct a new, much larger pipeline, using the same route, rather than extend the Mid West Pipeline.

4.43 Given APA NGI's choice to construct a new pipeline (where it had the opportunity to expand the Mid West Pipeline), coupled with the current spare capacity on the NGI and the NGI's ability to efficiently increase capacity, the Council considers it would be uneconomic to extend the Mid West Pipeline.

Profitability of a new pipeline as part of a broader project

4.44 In contrast to the discussion on the profitability of a new open access gas pipeline being constructed (where there is no significant foundation customer) this section discusses whether it would be profitable to develop another pipeline to provide pipeline services as part of a broader project (i.e. where there is one (or more) foundational customers).

4.45 In this context, a pipeline constructed as part of a broader project is not required to earn a rate of return on the pipeline itself, but rather the whole project is required to earn a rate of return. The focus of the pipeline owner is on the efficient delivery of and start of the broader project (e.g. the mine), and selling the mining product (e.g. iron ore), where the pipeline is one (vital) component to manage.

4.46 While the circumstance of every project is different, in general the smaller the project, the more likely the entity will seek to purchase gas transport via an open access pipeline (especially where capacity is available). However, for very large projects the benefits and costs of controlling assets vital to the broader project becomes more favourable. With the current information available the Council cannot be satisfied that it would be uneconomic for anyone to construct a new pipeline to provide pipeline service as part of a broader project in the mid west or Goldfields regions.

4.47 APA NGI has provided, as an example, the Mindax-supported infrastructure corridor project.

Mid West Shared Infrastructure Project

4.48 The Mid West Shared Infrastructure Project is supported by Mindax, which is a Western Australian minerals exploration company, and while not included in the Application, is also supported by Cashmere Iron which is developing the Cashmere Downs Iron Project.[98]

4.49 AGI Operations Pty Ltd (part of the Australian Gas Infrastructure Group of Companies which owns the Dampier to Bunbury pipeline) is currently investigating (via a pre-feasibility study) this infrastructure corridor to service iron ore mines around Mt Forrest and Cashmere Downs.[99] It would include a gas pipeline as well as pipes to carry slurry and water. The corridor would be primarily intended to service the Mindax and Cashmere projects, but it may also have capacity to service other mines.[100]

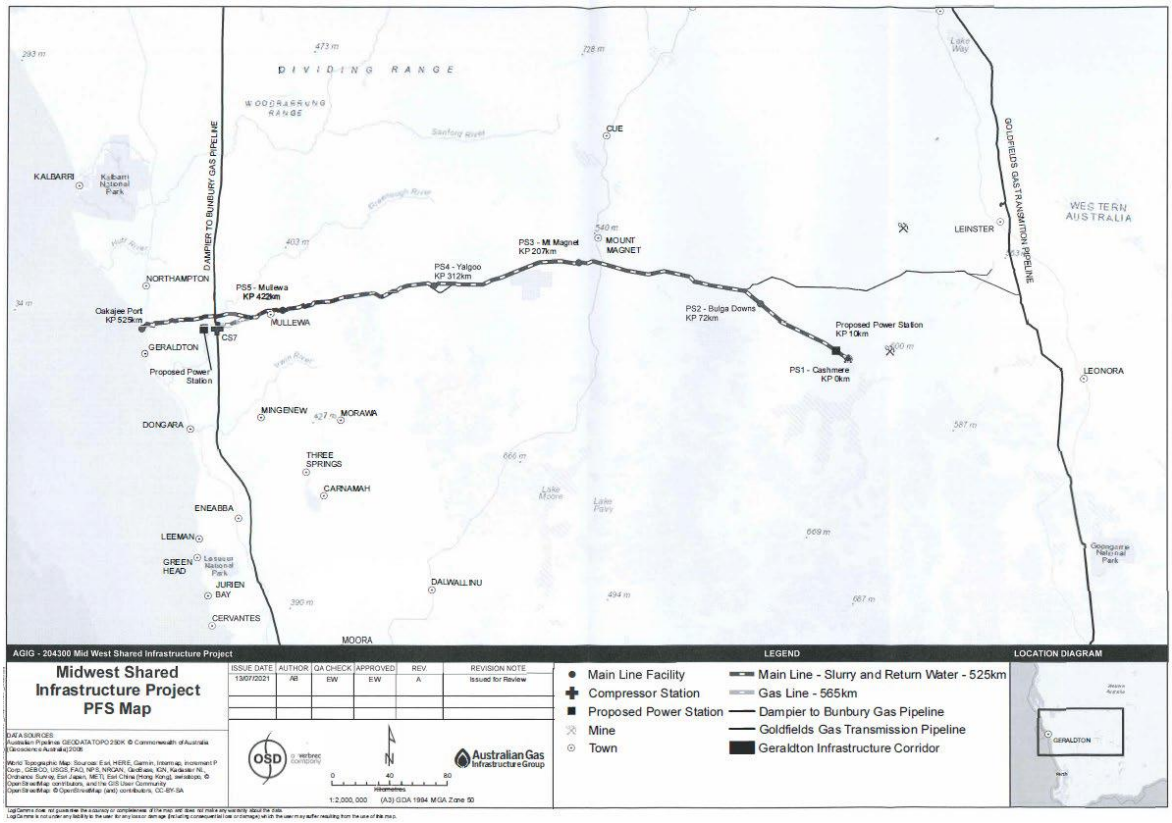
4.50 Figure 3 provides a map of the potential infrastructure corridor. This map shows the potential slurry and return water pipelines, and the gas pipeline, using a route close to the NGI and the Mid West Pipelines. There is also a gas compression station on the Dampier to Bunbury pipeline. The potential gas pipeline would be 565 km long.

98 Cashmere Iron, Media release: *Cashmere iron secures key partners for major magnetite mine development*, 6 May 2021.

99 Mindax Limited, Company Update: *ASX Announcement - Mt Forrest project study progresses*, 22 May 2023.

100 Mindax Limited, ASX announcement, *Mt Forrest Scoping Study*, 10 February 2023, p 2.

Figure 3: Mid West Shared Infrastructure Project Map, showing slurry and return water and gas lines



Source: Cashmere Iron, *Cashmere Iron, the Future of Iron Ore, Global Iron Conference*, 29 July 2022, slide 11.

4.51 The Council notes that the cost of the pre-feasibility study is around $2 million[101] and the Mindax project partners have continued their investigations in the full knowledge that the NGI is available with capacity to convey gas into the same area.

4.52 The Council is not satisfied that it would be uneconomic for anyone to construct a new gas pipeline, as part of a broader project, to provide the pipeline services provided by means of the NGI.

Conclusion

4.53 The Council is not satisfied that it would be uneconomic for anyone to develop another pipeline to provide the services provided by means of the NGI.

Conclusion on criterion (b)

4.54 The Council does not consider that criterion (b) is satisfied.

101 Mindax Limited, ASX announcement, *Mt Forrest Scoping Study*, 10 February 2023, p 1.

5 Criterion (c)

5.1 Criterion (c) is that:

> *access (or increased access) to the pipeline services provided by means of the pipeline can be provided without undue risk to human health or safety.*

5.2 If the Council is not satisfied that access (or increased access) to the pipeline services provided by means of the pipeline can be provided without undue risk to human health or safety, it must recommend in favour of a 15 year no-coverage determination.

5.3 In considering this criterion, the Council considers the following matters:

- whether there is a statutory health and safety scheme which will apply to the pipeline services in circumstances where access is granted to third parties, and
- whether the terms and conditions of access can adequately deal with any safety issues.

5.4 APA NGI accepts that criterion (c) is satisfied. APA NGI submits that it will operate the NGI pipeline in accordance with its petroleum pipeline licence, all applicable Western Australian and Federal laws and good industry practice, which will ensure that human health and safety is not at risk as a result of the operation of the NGI pipeline.

5.5 In respect of the first matter above, the safe use of natural gas transmission pipelines through appropriate operator practice and regulation is well established in Australia. The Council expects that the relevant Western Australian and Federal law, as well as the conditions of APA NGI's licence, will deal adequately with the safe operation of natural gas pipelines. The Council has no reason to believe that APA NGI will not comply with all relevant laws and the conditions of its licence.

5.6 In respect of the second matter above, the Council sees no basis to consider that increased access by third parties to the services provided by the NGI would compromise human health or safety and it is therefore not necessary to consider whether the terms and conditions of access could deal with any safety issues.

Conclusion on criterion (c)

5.7 The Council considers that criterion (c) is satisfied.

6 Criterion (d)

6.1 Criterion (d) is that (emphasis added):

> *access (or increased access) to the pipeline services provided by means of the pipeline would not be contrary to the public interest.*

6.2 If the Council is not satisfied that access (or increased access) to the pipeline services provided by means of the pipeline would not be contrary to the public interest, it must recommend in favour of making a 15 year no-coverage determination.

6.3 Criterion (d), being expressed in the negative, does not require the Council to be satisfied that access (or increased access) *would* be in the public interest, but rather to be affirmatively satisfied that access (or increased access) would *not* be contrary to the public interest.[102]

6.4 'Public interest' is not defined in the WA Gas Law. Where there are no positive statutory indications of the considerations upon which the public interest is to be assessed, assessment 'imports a discretionary value judgment to be made by reference to undefined factual matters'. The range of matters to which the Council may have regard in considering whether to be satisfied that access (or increased access) would not be contrary to the public interest is very wide.[103]

The Application

6.5 APA NGI submits that as neither criterion (a) nor (b) is satisfied with respect to the NGI, there can be little (if any) public interest in imposing tariff regulation, but material cost. In APA NGI's submission it follows that criterion (d) cannot be satisfied and the Council must recommend making a 'no-coverage' determination.[104]

6.6 However, APA NGI submits that even if the Council considers either criteria (a) or (b) are satisfied, criterion (d) is still not able to be satisfied, because the costs of regulation will substantially outweigh any public interest.[105]

6.7 In this respect, the Application focuses on the following cost categories:

- the effect of regulation on incentives for efficient investment, in particular:
  - impacts on future investments in greenfield pipeline projects
  - impacts on ongoing investment in the NGI, and
- direct regulatory costs of coverage.

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102 *Port of Newcastle Operations Pty Ltd v Australian Competition Tribunal* (2017) 253 FCR 115, [147].

103 Pilbara HCA, [42], [108].

104 APA NGI, Application, p 39.

105 APA NGI, Application, p 39.

APA NGI: Impact on future investments

6.8 APA NGI submits that provisions in the WA Gas Law for making a no-coverage determination were introduced, based on recommendations of the Productivity Commission, for the express purposes of providing greater certainty regarding regulatory coverage of greenfields pipelines and promoting greenfields pipeline investment by mitigating regulatory risks.[106]

6.9 APA NGI submits that the NGI is an example of a greenfields project that involves considerable risk and uncertainty around the timing and amount of customer demand.

6.10 In particular, APA NGI notes that there is:

> *… also the likelihood that there will be at least periods of lower returns that will need to be offset by periods of higher returns. The prospect of tariff regulation being applied at some point during the early years of a pipeline's life means that any higher returns will be truncated, while leaving the service provider to bear the burden of lower return periods.*[107]

6.11 APA NGI submits the NGI is the type of project for which a no-coverage determination would provide essential support for private investment, which is consistent with the aspect of the National Gas Objective that seeks to promote efficient investment in natural gas services. In the absence of a no-coverage determination, the regulatory risk and risk of asymmetric truncation of project returns would persist, putting future investment at risk.[108]

APA NGI: Impact on ongoing investment in the NGI

6.12 APA NGI submits that scheme pipeline regulation impacts a service provider's ability to invest in response to customer needs.

6.13 APA NGI submits that on APA Group's non-scheme and light-regulated pipelines, APA Group has been able to respond to capacity demand with investment. Investments in non-scheme pipelines are able to occur quickly and efficiently, such as on the East Coast Gas Grid and the NGI. In contrast, investments in scheme pipelines (i.e. pipelines subject to a regulatory determination) have been delayed or not approved because of the need to allow regulatory review or meet regulatory prudency criteria, and returns are capped which limits the amount of risk that can be undertaken on the investment.[109]

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106 APA NGI, Application, p 40. APA also referred to Productivity Commission, *Gas Access Regime: Inquiry report* (August 2004) at p 391 and 394 and, section 9 and Appendix B.

107 APA NGI, Application, p 40.

108 APA NGI Application, pp 40-41.

109 APA NGI, Application, pp 41-42.

APA NGI: Direct regulatory costs of coverage

6.14 APA NGI submits that the additional cost of preparing access arrangements for regulatory approval and complying with various obligations if the NGI were to become a 'covered' pipeline, could amount to $1 million for each access arrangement review plus ongoing regulatory costs.

6.15 This includes:

- an estimated $800,000 incurred by APA NGI in preparing access arrangements for regulatory approval and complying with various obligations applicable to scheme pipelines under the WA Gas Law and Gas Rules
- around $200,000 in costs of the ERA and other public bodies in carrying out their functions in relation to a covered pipeline, and
- ongoing regulatory functions of the ERA, charged to pipeline owners.

Council's assessment

6.16 The Council considers that a broad range of issues may be considered when assessing the impact on the public interest of access (or increased access) to the pipeline services provided by means of the NGI, although a detailed technical examination of the costs and benefits is not required. Rather a broad qualitative comparison and assessment of the main factors is appropriate.

6.17 APA NGI submits that because neither criterion (a) nor (b) are satisfied with respect to the NGI, it follows that criterion (d) cannot be satisfied.

6.18 The Council's view is that the conclusion on criterion (d) does not flow automatically from its conclusions in relation to criteria (a) and (b). The Council considers that the preferable approach to criterion (d) is to seek to identify any matter that could mean access or increased access might be contrary to, or in, the public interest and then assess whether the likelihood and consequences of that matter lead to the conclusion that access would, or would not, be contrary to the public interest. However, this is not to say that the conclusions derived from the Council's assessment of criteria (a) and (b) are irrelevant to this task. The Council may draw on its conclusions in relation to those criteria for the purposes of assessing criterion (d).

6.19 The Council's assessment has, in the past, encompassed matters involving economic efficiency, regulatory cost, disruption effects and cost and investment effects.[110] For the purposes of assessing criterion (d), the issues considered to be relevant by the Council are:

- effects of access (or increased access) on future greenfield investments
- effects of access (or increased access) on future investment in the NGI
- effects of access (or increased access) on investment in dependent markets, and

110 NCC Gas Guide, para 3.113.

- administrative and compliance costs of access (or increased access).

Future greenfields investments

6.20 The Council accepts that the purpose of introducing provisions in respect of no-coverage for greenfields pipeline projects was to provide greater certainty and confidence to service providers to undertake investments in those projects. Indeed, the Council acknowledges that applying for and obtaining a 15 year no-coverage determination in the early stages of investment in a pipeline such as the NGI would provide this certainty.

6.21 However, this is not what APA NGI in fact did. It is difficult to reconcile APA NGI's decision to invest in and construct the NGI prior to applying for a no-coverage determination, with its argument that coverage would lead to regulatory risk and uncertainty, resulting in impacts on future investment in greenfields pipelines.

6.22 In any event, the Council does not accept that a refusal to make a no-coverage determination regarding the NGI would be a general deterrent to efficient investment in greenfields pipelines. The legitimate interests of owners of pipelines which are the subject of a coverage determination are protected under the WA Gas Law. For example, the access arrangement must provide the infrastructure owner with a risk adjusted commercial return on its investment.[111]

6.23 APA NGI also raised the issue of truncated returns on investment, especially regarding situations where there will be periods of lower returns that will need to be offset by periods of higher returns.

6.24 The Council is aware that regulators have techniques that seek to balance the demand side risks for both consumers and service providers when demand is variable or increases over time.[112] For example, the WA Gas Law allows for a speculative capital expenditure account.[113] Regulators may also allow for loss capitalisation whereby the losses incurred by a service provider in early years, when demand is low, are accumulated with interest, and recovered in later years when demand has sufficiently increased.[114]

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111 National Competition Council, GLNG Pipeline, *Application for a 15 year no-coverage determination: Final recommendation*, 22 May 2013, para 9.11.

112 Regulators may include a revenue cap which protects customers from increases in prices or volumes, while protecting the service provider from a fall in volume. This may include a system of 'unders and overs' whereby under-recoveries can be recovered in the following years.
Where the provider has more control over volumes, price caps tend to be more appropriate than revenue caps, allowing the provider to reap the benefit of increasing volumes above those forecast.

The WA Gas Rules (r 89) also provide for regulated prices to be designed to vary over time to encourage efficient growth in the market.

113 WA Gas Rules, r 84.

114 For loss capitalisation, see ACCC, *Decision In relation to Australian Rail Track Corporation's Hunter Valley Rail Network Undertaking*, 29 June 2011, pp 43-44.

6.25 The Council does not accept that a refusal to make a no-coverage determination regarding the NGI would be a general deterrent to efficient investment in greenfields pipelines.

Future investment in NGI

6.26 APA NGI notes that it has a strong track record of investing in anticipation of capacity demand but tariff regulation of the NGI would create material risks to future investment.

6.27 The Council agrees with APA NGI that investment in pipelines is often lumpy.[115] Given that the NGI is a new pipeline just completed in 2023, and based on current[116] and forecast demand[117], the Council considers it unlikely that there would be further material investment in the pipeline in the near to medium term.

6.28 The Council notes that the NGI has the potential to develop additional future compression at the Yoweragabbie Scraper Station.[118] This is likely to occur when the NGI is approaching capacity. The Council considers the decision to invest in the compressor station will not be influenced by whether the NGI is subject to a coverage determination or not.

6.29 The Council does not accept that refusal to make a no-coverage determination would create material risks to future investment in the NGI, as contended by APA NGI.

Investment in dependent markets

6.30 While not raised by APA NGI in the context of criterion (d), the Council has also considered whether access (or increased access) to the NGI may impact investment in dependent markets.

For the NBN, the ICRA (Initial Cost Recovery Account) is an account for accumulating (and rolling forward) NBN Co's initial unrecovered costs. ACCC, *NBN Co Special Access Undertaking Long Term Revenue Constraint Methodology 2013-14: Final Determination*, June 2015, p 2.

115 APA NGI, Application, p 41.

116 AEMO website, Reports, Actual Flows, year to date 2023, accessed 21 September 2023.

117 APA has provided confidential information regarding future demand. Additionally, APA's supplementary information (Appendix E, p), states:

APA cannot provide a long term capacity reservation forecast for the NGI. Our current contracted demand forecast, based on our current understanding of likely and probable opportunities, is expected to reach 13 TJ/day by the end of FY 2024 (in comparison to capacity of 76 TJ/d).

118 APA NGI, Application, p 7.

6.31 The Council has previously expressed a view, in a different context, that access regulation may lead to more efficient investment in dependent markets.[119]

> *For instance, if declaration* (i.e. a coverage determination) *prevents an access provider from setting charges for a service at an inefficiently high level, it can encourage other entities to efficiently invest in infrastructure which is reliant on access to the service.*[120]

6.32 Relevantly, in Chapter 3 the Council was not satisfied that the covered price would be materially different to the non-covered price or that APA NGI would have incentives to deny access.

6.33 The Council does not consider that access (or increased access) would have an impact on future investments in dependent markets.

Administrative and compliance costs

6.34 APA NGI submits there are broadly two types of cost relating to regulating infrastructure service providers. The cost of undertaking a determination, and the ongoing costs of compliance, monitoring and reporting.

6.35 APA NGI has stated that if the NGI was covered, the regulatory costs would be around $1 million for each regulatory determination which includes costs imposed on APA NGI and the ERA. Given a determination decision every 5 years, this averages to a cost of around $200,000 per year.

6.36 APA NGI has also provided a confidential estimate of ERA's charge to APA Group for the ongoing regulation of the Goldfields pipeline.[121]

6.37 Separately, the ERA has determined and published regulatory costs for the Goldfields pipeline. This comprised the pipeline owner's internal regulatory costs of $0.23 million plus ERA charges of $0.45 million.[122]

6.38 Collectively this results in an annual cost of $0.682 million ($2018).[123] APA NGI's confidential application is consistent with this magnitude of costs.

6.39 The Council notes that uncovered pipelines also incur regulatory costs but understands that these costs are minimal relative to those for pipelines subject to full regulation.[124]

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119 National Competition Council, *Application for declaration of certain services at the Port of Newcastle, Recommendation*, 18 December 2020, p 87. (NCC, *Port of Newcastle,* December 2020).

120 NCC, *Port of Newcastle,* December 2020, p 87. See also Productivity Commission 2013, *National Access Regime, Inquiry Report no. 66*, Canberra, p 82.

121 APA NGI, Application p 43.

122 The actual ERA charges for the Goldfields pipeline in 2022-23 were $379,510. (*ERA, Annual Report, 2022-23*, p 77).

123 ERA, *Final Decision on Proposed Revisions to the Goldfields Gas Pipeline Access Arrangement for 2020 to 2024*, pp 55, 62, 67.

124 The ERA incurs costs of about $550,000 per year for 86 non-scheme gas pipelines, averaging about

6.40 The Council accepts that the level of potential costs from coverage, as submitted by APA NGI, are consistent with recent regulatory allowances, and that there would be some additional costs from coverage for both the access provider and the regulator.

Summary

6.41 The Council has considered a broad range of issues when assessing the impact on the public interest of access (or increased access) to the pipeline services.

6.42 The Council does not accept APA NGI's submission in relation to the impact coverage will have on efficient investments in greenfields pipelines or future investment in the NGI.

6.43 However, the Council accepts that access (or increased access) to pipeline services provided by the NGI would result in some additional administrative and regulatory cost, without any identified material benefits. In particular, the Council is not satisfied that access (or increased access) to the pipeline services provided by the NGI:

- will promote a material increase in competition (as discussed in Chapter 3), or
- would have an impact on future investment in dependent markets.

6.44 On this basis, the Council is not satisfied that access (or increased access) would not be contrary to the public interest.

Conclusion on criterion (d)

6.45 The Council does not consider that criterion (d) is satisfied.

$6,500 per pipeline. (ERA, *Cost recovery for the non-scheme gas pipeline regime: Consultation Paper*, 13 October 2020, p 16.

Appendix A: Information taken into account

Table A.1 Application

Author	Date	Title	Confidentiality
Northern Goldfields Interconnect Gas Pipeline Pty Ltd	23 June 2023	*Northern Goldfields Interconnect: Application for a 15 year no-coverage determination under section 151 of the National Gas Access (Western Australia) Law*	Yes. Separate confidential and publication versions provided to Council.

Table A.2 References[125]

ACCC, Decision In relation to Australian Rail Track Corporation's Hunter Valley Rail Network Undertaking, 29 June 2011

ACCC, NBN Co Special Access Undertaking Long Term Revenue Constraint Methodology 2013-14: Final Determination, June 2015

AEMC, Fact sheet: Guide to the application of the National Gas Law and National Gas Rules in Western Australia, accessed 26 September 2023

AEMC, Gas pipeline register, accessed 21 September 2023

AEMC, Western Australia (National Gas Rules)

AEMO website, Reports, Actual Flows

AEMO, 2022 Western Australia Gas Statement of Opportunities, December 2022

AEMO, live bulletin board, https://gbbwa.aemo.com.au/#home

AEMO, website, Report, GBB-EndUserConsumption-Yearly-2023, accessed 2 October 2023

APA Group, ASX announcement, Acquisition of Alinta Energy Pilbara and $750 million equity raising, 23 August 2023

APA supplementary information (ACCC information request sent 6 September 2023 with APA NGI's response received 15 September 2023)

APA, Eastern Goldfields Pipeline System, accessed 4 October 2023

APA, Goldfields Gas Pipeline System, accessed 20 September 2023

APA, media release, Northern Goldfields Interconnect Pipeline Officially Opened, APA Group, 28 July 2023

APA, Mid West Pipeline & Mt Magnet Lateral schematic, accessed 14 August 2023

APA, Northern Goldfields Interconnect project, March 2021

APA, Northern Goldfields Interconnect, accessed 4 October 2023 (website)

APA, Service Usage Information Report, northern goldfields interconnect, accessed 4 October 2023

APA, tariffs and terms, accessed 1 August 2023

Australian Government DCCEEW, Australia's emissions projections 2022, December 2022

Bellevue Gold, Macquarie Australia Conference, high-grade Bellevue Gold Project in WA, Building Australian's next major gold mine, May 2023

BHP, Our GHG emission reduction targets and goals, accessed 4 October 2023

Cashmere Iron, Media release Cashmere iron secures key partners for major magnetite mine development, 6 May 2021

[125] Appendix A lists, for the purposes of s 261(7)(e) of the NGL, the reports and materials relied on by the Council in making its recommendation.

Economic Regulation Authority (ERA) (WA), Annual Report, 2022-23
ERA, Cost recovery for the non-scheme gas pipeline regime: Consultation Paper, 13 October 2020
ERA, Dampier to Bunbury Natural Gas Pipeline
ERA, Exemption application – Northern Goldfields Interconnect (PL 129), 2 August 2023, accessed 4 October 2023
ERA, Final decision on proposed revisions to the Dampier to Bunbury Natural Gas Pipeline access arrangement 2021 to 2025, 1 April 2021
ERA, Final Decision on Proposed Revisions to the Goldfields Gas Pipeline Access Arrangement for 2020 to 2024
ERA, Gas Access
ERA, Goldfields Gas Pipeline
Energy Storage News, Andy Colthorpe, AGL Wartsila complete 250MW Torrens Island BESS project in South Australia, 22 August 2023
Government of Western Australia, Climate change legislation, accessed 4 October 2023
Government of Western Australia, Grant of licence PL 129, Northern Goldfields Interconnect Pipeline, issued on 10 March 2022
Hornsdale Power Reserve website, accessed on 4 October 2023
Liontown, Fast charging towards a low carbon future, Kathleen Valley Lithium Project, November 2021
Mindax Limited, ASX announcement, Mt Forrest Scoping Study, 10 February 2023
Mindax Limited, Company Update ASX Announcement - Mt Forrest project study progresses, 22 May 2023
National Competition Council (NCC) 2013, Gas Guide: A guide to the functions and the powers of the National Competition Council under the National Gas Law, October 2013
National Competition Council (NCC) 2020, Application for declaration of certain services at the Port of Newcastle: Recommendation, 18 December 2020
National Competition Council (NCC) 28 April 2015, Comet Ridge to Wallumbilla Pipeline Loop -15 year no-coverage determination: Final recommendation
National Competition Council (NCC) 22 May 2013, GLNG Pipeline, Application for a 15-year no-coverage determination: Final recommendation
Productivity Commission 2013, National Access Regime, Inquiry Report no. 66, Canberra
Productivity Commission, Gas Access Regime: Inquiry report, August 2004
Using Hot Taps for In Service Pipeline Connections, USA EPA
WA Department of Mines, Industry Regulation and Safety, Fact Sheet: Western Australian Minerals sector greenhouse gas emissions and energy use, September 2022
WA DMIRS, Case Study Gold Fields' Agnew, Granny Smith and Gruyere mines, September 2022
WA Government, Acts with Administering Portfolios and Public Sector Agencies, accessed 4 October 2023
WA Government, Gas industry, accessed 4 October 2023

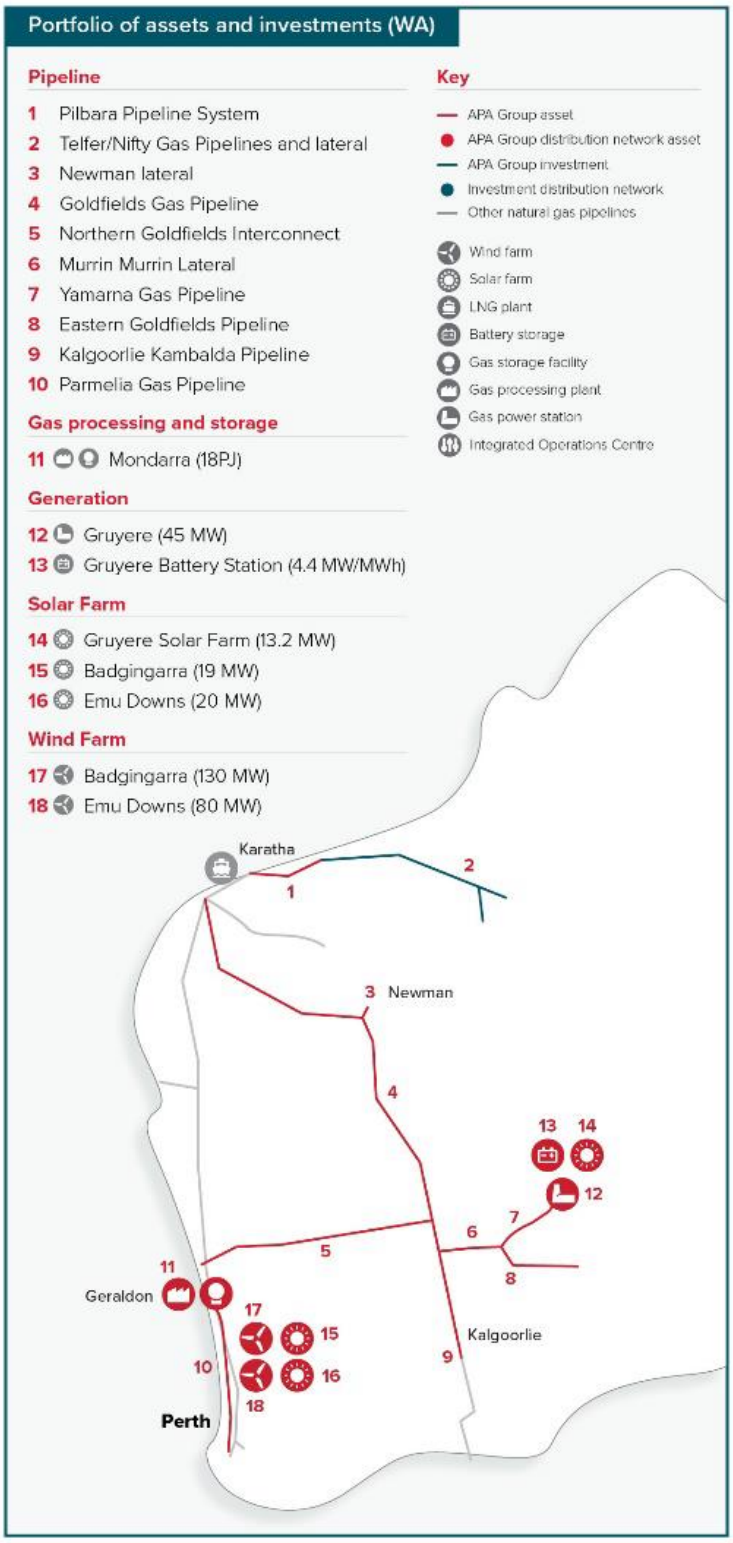
Table A.3 Legal sources

Tribunal and court decisions
Duke Eastern Gas Pipeline Pty Ltd [2001] ACompT 2
The Pilbara Infrastructure Pty Limited v Australian Competition Tribunal (2012) HCA 36; (2012) 290 ALR 750 (*Pilbara HCA*)
Port of Newcastle Operations Pty Ltd v Australian Competition Tribunal (2017) 253 FCR 115
Water Conservation and Irrigation Commission (NSW) v Browning (1947) 74 CLR 492
Application by New South Wales Minerals Council (No 3) [2021] ACompT 4
Legislation
Competition and Consumer Act 2010 (Cth)
National Gas (South Australia) Act 2008 (SA) (**NGL**)
National Gas Law, Schedule to the National Gas (South Australia) Act 2008 (SA)
National Gas Access (WA) Act 2009
National Gas Rules (WA)
National Gas (South Australia) (Pipelines Access – Arbitration) Amendment Act 2017 (SA);
Government of Western Australia, Energy Coordination Act 1994, section 3.
Government of Western Australia, Petroleum Pipelines Act 1969, section 10

Appendix B: Map of NGI and WA pipeline network

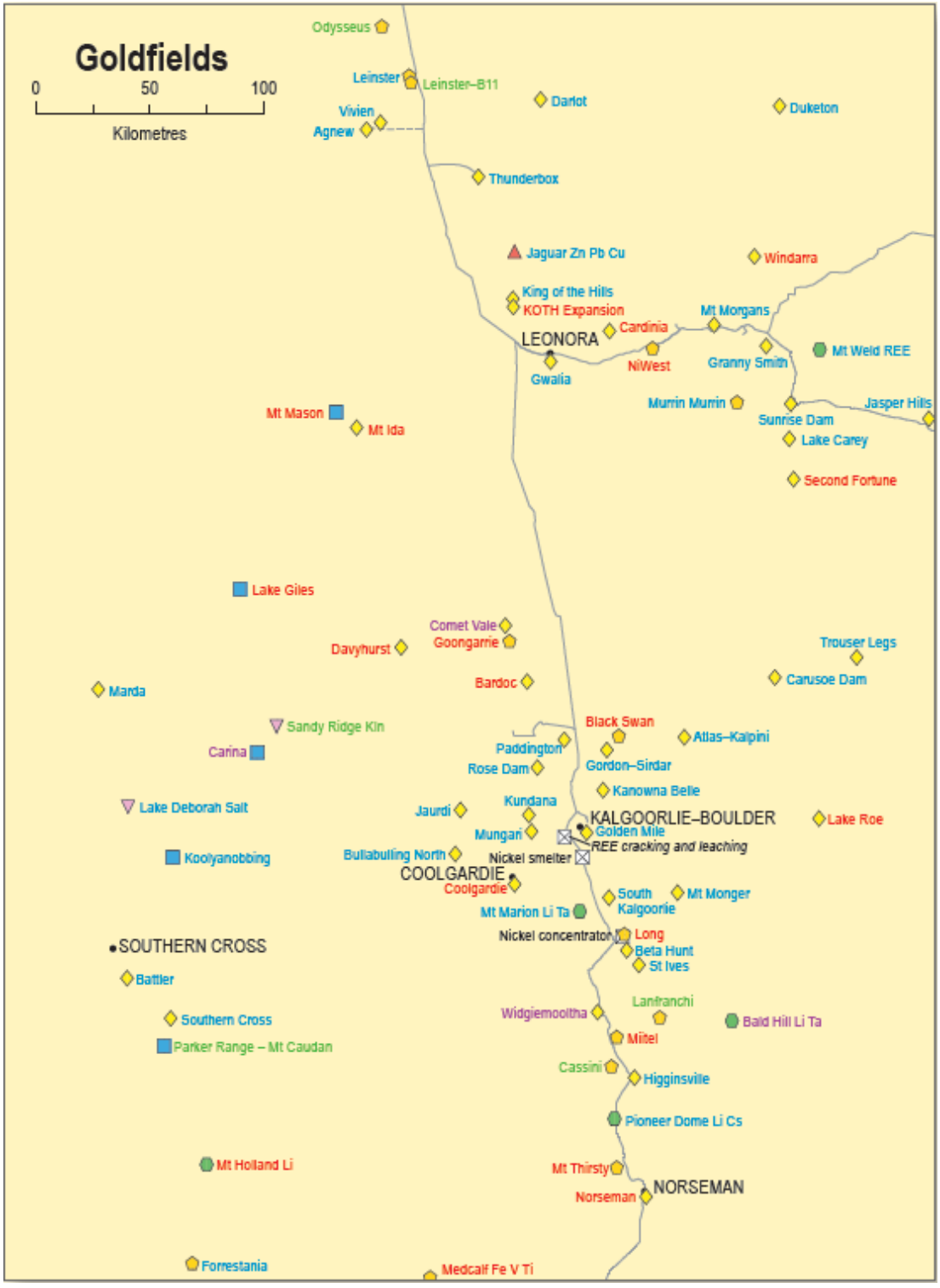
Source: APA NGI, Application, Figure 1, p 6.

Appendix C: NGI and other APA assets and investments in WA



Source: APA NGI, Application, Figure 2, p 9.

Appendix D: Major resource projects in WA Goldfields region



Source: Extract of WA Government, DMIRS, Map: *Major Resource Projects March 2021*, March 2021.

Table D1: Mining sites and Companies

Commodity	Sites	Companies
Gold	155	117
iron ore	77	37
lithium	14	12
Nickel	29	18
Vanadium	1	1
rare earths	3	3

Source: derived from WA Government, DMIRS, *2022 Economics indicators resources data, Mining employment by site*, (2022, 2022_Economic_Indicators_Resource_Data_File: tab: Mining employment by site), accessed 5 October 2023.
Not all sites may be active. Some individual companies may have the same ownership.

Additional information

'In 2021-22, Western Australia had 129 principal mining projects'. Where principal mining projects are projects with employment greater than 50.

'Western Australia's petroleum industry consisted of 20 projects that produced oil, gas and condensates from 51 fields in onshore and offshore areas of the State.'

Source: WA Government, DMIRS, *Western Australia's principal resources projects, 2021-22*, p 1.

Appendix E: APA supplementary response

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APA application for 15-year no-coverage determination for NGI pipeline – Response to request for information

Question 1: Commissioning Date

We noted that APA's media release states a commissioning date for the NGI of 23 June 2023 while APA's website states it was fully operational on 1 July 2023.

Could APA please explain the difference between these 2 statements, and confirm the commissioning date?

Response:

The pipeline was complete and ready for service on 23 June 2023. First gas for commercial purposes flowed on 1 July 2023. Therefore, for the purpose of section 12 of the National Gas Law, the NGI was officially commissioned on 1 July 2023.

Question 2: Capital expenditure

APA in the Application estimates capital expenditure on the NGI pipeline as $501 million.

Could APA please provide an updated capital cost that we could use publicly?

Response:

The NGI pipeline capital cost is $501 million.

Question 3: Mid West Pipeline (MWP)

Could APA confirm that it has sold all its interest in the MWP?

Response:

APA has disposed of its ownership interest in the MWP. APA continues to undertake operation and maintenance functions for the MWP, under contract with the new owners. APA has no role in customer liaison or commercial contracting for the MWP.

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Question 4: Gruyere gas generation

We understand that APA owns and operates a gas-fired power station for the Gruyere gold mine, that is supplied from the Goldfields Gas Pipeline (**GGP**) and Eastern Pipeline.

a. What is the daily average amount of gas used for this generator over the last year?

Response:

[redacted]

b. Can you please describe any ring fencing you have between your gas transport and energy generation business.

Response:

APA complies with relevant ring-fencing related requirements under the National Gas Law, including:

- maintaining separation of entities, marketing personnel, information and accounts;
- ensuring that its transmission and networks businesses do not enter a contract with an "associate" that has the purpose or effect of substantially lessening competition;
- ensuring that its transmission and networks businesses offer APA ring-fenced businesses the same prices and terms they would offer customers not related to APA for like-for-like services; and
- ensuring confidentiality of sensitive customer information from other APA ring-fenced businesses.

The Application lists potential customers over the next 4 years.

c. Could APA confirm that its Gruyere gas generator is not expected to be a customer of the NGI pipeline?

Response:

Currently, GGP supplies gas transportation services to Gruyere gas generator, via the Goldfields Gas Pipeline, which is connected to the Eastern Goldfields Pipeline and Yamarna Gas Pipeline.

APA has not received a request to provide gas transmission services to the Gruyere gas generator via NGI.

d. Where does APA currently source gas for the Gruyere generator from?

e. What is the contract length for the supply of gas to the Gruyere power station?

f. What are APA's main considerations or costs and benefits in obtaining gas via the NGI versus the northern GGP?

Response for questions d, e and f:

APA only provides gas transport services to Gruyere gas generator, and is not involved in the gas supply arrangement. We do not know the details of the supply contract.

g. A DMIRS case study stated that Gold Fields expect the Gruyere solar array to achieve an annual renewable energy fraction of 10 per cent. Does APA expect the contribution of renewable energy to the energy used by its Gruyere gas generator to increase?

Response:

For any mine site that has existing gas generation facilities, new investments in renewable generation at the site is likely to decrease the total use of gas as the GPG functionally moves to back-up generation when the renewables are not meeting the full needs of the site. This can mean that the peak requirements for pipeline capacity for supply to the site can remain the same, albeit with a reduction in the frequency and duration of use in lieu of renewables.

Question 5: Long term demand

The Application states, confidentially, that over an expected operational life of 18 years, APA expects its investment in the NGI pipeline to deliver a positive NPV.

a. Could APA provide further information on the key assumptions on which that is based?

b. Does APA expect to be transporting gas after this expected 18 year operational life?

c. Could APA provide a 15 year demand forecast (peak/contracted and average) for the GGP and NGI pipelines? Please provide it in terms of average daily demand.

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Response:

The decision to build the NGI was made in response to an assessment of overall long-term customer demand in the Mid-West, Goldfields and Kalgoorlie regions, which are considered to exceed the capacity of the GGP. APA assessed that the construction of the NGI could be achieved at a lower cost, and while also delivering other benefits to customers (such as access to diversity of supply), compared to expansion of the GGP.

APA's assessment of the market was developed based on customer requests for additional capacity, as well as analysing near to medium term expansion plans for mining sites in the region, to build a likely demand investment case made up of many different customers. Importantly, there was no identified large or foundation customer underpinning the investment.

The assessment of the market was made assuming an 18-year economic life, taking into account expected mine life and likely investments in renewable generation that could impact demand in the longer term. The ultimate operational life of the pipeline will depend on its economic life, which could be influenced by a number of factors, including growing demand for new energy minerals such as lithium and vanadium.

APA cannot provide a long term capacity reservation forecast for the NGI. Our current contracted demand forecast, based on our current understanding of likely and probable opportunities, is expected to reach 13 TJ/day by the end of FY 2024, with demand beyond this timeframe being highly dependent on customers reaching FID on their own investment projects.

APA expects the GGP to remain fully contracted for the foreseeable future.

Forecast peak demand on the NGI is likely to match the maximum capacity reservation at any point in time, as the nature of the market means that customers largely require firm capacity to meet their peak needs.

APA is unable to provide a forecast of average capacity usage (throughput) as this is highly dependent on customer demand volatility, in particular driven by their decisions to invest in renewable generation, and then the performance of that generation, which APA is unable to forecast with any degree of certainty.

Question 6: Price structure

APA's website states that the NGI pipeline tariff is currently $2.9371 /GJ/day of MDQ, Long-term Firm, while the GGP has a multi-level tariff with components for per GJ, per GJ capacity per km, and per km^3 throughput. We also understand from our discussion with APA that peak demand may hold up better than average throughput over the coming years.

What are APA's considerations in setting a charge for the NGI pipeline based purely on MDQ as opposed to a multi-level tariff with other components?

Response:

The GGP reference tariff is structured in three components:

- A fixed "per GJ of MDQ" charge;
- A distance-based capacity tariff, "per GJ of MDQkm", and
- A distance-based throughput tariff "per GJkm".

The GGP is a long, thin, pipeline, with loads scattered along the length. From a cost reflectivity perspective, the distance from the injection point, Yarraloola, is a key driver of costs, and therefore the GGP tariff is structured with a distance component.

The distance component is not nearly so relevant on the NGI, as a) the pipeline is much shorter, and b) there is not (currently) the dispersion of loads along the length of the pipeline.

Question 7: Goldfields Gas Pipeline – coverage arrangements

a. What determines who pays for gas from the Goldfields Gas Pipeline under
   (i) covered and
   (ii) uncovered arrangements?

b. Do particular customers either pay the covered or uncovered price, or could they pay a mixed price on some basis?

Response for questions a and b:

The GGP operates under a contract carriage model, in which shippers contract for pipeline capacity. Access to any particular tranche of pipeline capacity will depend on when the shipper first contracted for capacity, and subsequent contract renewals.

Once the original (covered) pipeline was fully contracted, the GGTJV expanded the capacity through compression, creating uncovered capacity - those shippers seeking capacity were required to be served from that uncontracted capacity.

Different shippers may be served from either Covered or Uncovered capacity, or a combination, depending on when their needs for capacity arose and the contracting status of the pipeline at that time.

It should be noted that the additional GGP capacity created from the interconnection of the NGI (a new injection point) will be Covered capacity for the purposes of the GGP

access arrangement, and the Reference Tariff will be available to any shippers seeking the Reference Service from the NGI connection point.

APA is forecasting around 40 TJ/d of contracts to lapse over the next 36 months.

c. What is the breakup between covered and uncovered contracts?

Response:
The amount referred to was made up of approximately 75% Uncovered and 25% Covered contracts.

d. Is APA expecting to recontract all of this capacity?

Response:

The majority of the capacity has been recontracted.

Question 8: ResourcesWA

APA in its confidential Application mentions ResourcesWA as a potential customer.

a. Is it related to the consultancy firm of that name?

b. What would it use the gas for?

Response for questions a and b:

Yes, this consultancy firm provides advisory services with potential transporters of gas, in addition to seeking pipeline transportation capacity to serve its own potential projects.
The potential project referred to in the application was for providing power to a client of ResourcesWA.