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Ministry of Business, Innovation, and Employment

via e-mail: justine.cannon@mbie.govt.nz

Dear Justine

Consultation on improving the transparency of the gas market

This letter provides feedback on the '*Regulatory proposals for improving gas market transparency*' as set out in the 'Discussion paper' dated 23 July 2026.

We have structured our submission in a way that best suits the nature of our feedback. This starts with our views on the nature of problem, followed by general commentary on the key proposals and our suggestions on further refinement. We have not provided specific responses to each of the 43 questions posed in the 'Discussion paper'. Our members and others in the sector are likely to provide you with more detailed and technical feedback on these questions.

Summary

We understand that improving gas market transparency is an important issue for the Government and the sector wants to work collaboratively with MBIE to develop workable regulations that are not unduly costly or administratively burdensome. Despite positive developments since this process began almost a year ago, to achieve the Government's objectives and ensure we get the regulations right, we consider that some adjustments still need to be made to the current proposals. The interim arrangements you are also consulting on need to be thoroughly evaluated before any enduring requirements are put in place.

Our view has consistently been that for most gas market participants, the key problems are accessing and being able to make use of the information already available, not needing more. What they need are the tools and capability to do this effectively. We consider that government agencies should take a more active role in collating the data and making it more accessible for users.

We are generally supportive of two of the three suggested disclosure requirements in this consultation. Taking each in turn:

a. we are pleased that MBIE has adopted our proposal to *collect maturity sub-class data* from operators. We consider that this alone would give them the information that they need to better understand supply into the market;

b. there is general comfort about *providing private pipeline data* so long as it is aggregated with other supply data; and

c. we continue to have significant concerns about *providing gas supply contract information*. These are most acute in relation to providing the full contracts, which we think is unnecessary, creates unacceptable risks, will not be fully utilised anyway and may well be illegal. Even when aggregated, the publishing of pricing information is also problematic – it will either be meaningless or expose commercially sensitive information.

Recommendations

Our **recommendations are**:

a. **maturity sub-class information** reporting should:

   1) be at the field aggregate level. This field-based reporting could then be aggregated across producers or broader categories, such as to permit level, for publication;

   2) use existing *Annual Summary Report* processes for collection and avoid bespoke reporting requirements; and

   3) include appropriate caveats around levels of uncertainty and variable factors that may substantially affect future supply outcomes.

b. **private pipeline data** should:

   1) be added to existing datasets to improve their coverage and accuracy and <u>not</u> separated out and reported on as a distinct category;

   2) <u>not</u> be an additional burden for operators or users by utilising existing operational and metering systems wherever possible; and

   3) <u>not</u> include pre-processing gas movement information.

c. in relation to **gas supply contract information**:

   1) *volumes and contract duration* are relevant indicators of future gas availability and could reasonably form part of reporting;

   2) the relevance of *pricing information* is less clear and, given its commercially sensitive nature, should be subject to higher thresholds for collection, confidentiality and publication;

3) for the larger (over 1PJ per annum) contracts, *a template should be used* to collect the relevant information. If the full contracts are sought, we will be questioning the legality of doing this;

4) the thresholds for the smaller contacts (10 to 1000TJ per annum) should be reconsidered, as 10TJ may add a significant compliance burden and excess of 100TJ would more reasonably be considered ‘medium sized’ contracts;

5) MBIE needs to demonstrate that systems are in place to ensure that *no individual gas contract information is released publicly*, including under an OIA request;

6) appropriate *information barriers and protections* against competitive use should be clearly established before compulsory disclosure begins;

7) *the purpose(s)* for which the information is being collected need to be *made explicit, clear* and set out in detail, and there must be assurances that it will only be used for those specific purpose(s);

8) if publishing is proposed, the *level of aggregation is carefully considered* to ensure it is not meaningless or broken down to expose commercially sensitive details. If it is not possible to strike the appropriate balance, publication should be abandoned; and

9) regulations should clearly prohibit the publication of the gas supply contracts in part or in full.

d. **evaluation of the interim measures and further work with the sector** to refine the proposals. In particular, it is critical that we have access to an exposure draft of the regulations to ensure workability and check technical elements.

e. regarding **access to information and building capability**:

1) *a single repository* for all the key information (i.e., one agency that collates it all and brings it together in one place). We now consider the *GIC* is best placed to do this;

2) *a dashboard* to present the data in a clear way should be developed and run by the GIC. We note that this was one of the recommendations in the Frontier Economics report (‘the Frontier Report’)[1]; and

3) *other tools and education material* should be developed to assist both consumers and commercial/industrial gas users.

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1 *Review of Electricity Market Performance* (23 May 2025) see 7.51 on page 109.

Concerns about process and likely poor public policy outcomes

Having set out the key points of our submission, we would like to again register our concerns about the process that has been followed. As we said in our letter to Ministers Jones and Brown dated 14 August 2026, the context changed several times during the course of the consultation period, and no allowances were made for this. Stakeholders were advised mid-way through that decisions had already been taken to proceed with interim measures that would require them to provide in full gas contracts over 1 PJ. After strong push back, MBIE suggested a possible alternate approach of using templates to gather the key information in the contracts and we were asked to develop a draft template. All of this occurred during the original consultation period, but reasonable requests for extensions were refused by MBIE.

It seems quite extraordinary that MBIE could consider it appropriate to continue to run this consultation to the same timeframes under these circumstances. In our view, basic standards of fairness and reasonableness have not been met, and due process has not been followed. This is of course on top of a deficient policy process that has never adequately established the burden of proof to justify the information disclosures being requested.

The almost inevitable result has been the delays and missteps that we have seen, and it is likely that this will ultimately lead to poor public policy outcomes. Whatever happens now, the relationship with industry has been damaged and any good faith that there may have been has been significantly eroded. This is a shame, as the sector has always been willing and able to assist when given adequate time and opportunity to do so.

Understanding the problems in the gas market and how they can be addressed

The problem definition

We stated in our submission dated 7 November 2025[2] on the first round of consultation on these proposals that:

> "In our view, the case for these interventions in the gas information disclosure market has not been made:
>
> a. the problem that these proposals seek to address, and its causes, have not been clearly defined or supported by compelling evidence;
> b. the costs, benefits and risks have not been adequately assessed; and
> c. the appropriate economic efficiency tests have also not been met to show demonstratable improvements to market outcomes.
>
> In essence, there is no clear line of sight from the problems to the proposals nor how they meet the objectives."

Almost a year on from this, these assertions remain equally true and relevant to this consultation. As far as we are aware, no regulatory impact assessments have been done

2 See https://www.energyresources.org.nz/dmsdocument/366 at page 1.

to support these proposals. The problem(s) that they seek to address have never been clearly defined and the purpose and use that will be made of the information sought has never been clearly articulated. Before introducing additional disclosure requirements, MBIE should be satisfied that the benefits justify the compliance costs and commercial risks, and that the information is not already available through existing reporting requirements.

As we have consistently said, the key problem with the gas market is not lack of information - it is lack of gas. If there is any issue with information in the market, as we suggested in our earlier submission, that problem is access to information that is already there and the ability to interpret it. This can be solved by collation, user-friendly presentation and education.[3]

Commentary on each of the current proposals

We are pleased to see that MBIE has listened to our earlier advice and reduced the list of proposed requirements from 14 to three. Having said that, and despite our ongoing assistance and support, there remain fundamental concerns about what is proposed, particularly the collection and holding of full gas supply contracts by MBIE and the release of aggregated information from these contracts.

Maturity sub-class information

We developed this proposal with the upstream sector and provided the details of how it would operate to MBIE in a letter dated 25 February 2026. It should provide some additional insight into the likelihood of future supply reaching the market. MBIE have largely adopted our proposed approach, so we have no major concerns about it. We consider that this reporting will be the most useful for government and gas users and should, in fact, be sufficient by itself. However, these classifications are inherently judgment-based and should not be interpreted as guarantees of future development. Any publication should therefore include appropriate caveats.

We note that our suggestion to roll up some of the categories as been rejected, which will mean that several are left blank or have 'nil' returns for most operators, but this is not a significant issue. Existing *Annual Summary Report* processes should be used to collect the information, and new bespoke reporting requirements should be avoided.

In our proposal, we indicated that reporting should be at the field aggregate level. This limits any inferences that could be made of internal portfolio strategies while still giving a meaningful picture of maturity distribution and the likelihood of moving into a developed reserve. Any more granular project-level reporting would expose commercially sensitive information including project timing, sequencing and economics. This remains our position. This field-based reporting could then be aggregated across producers or broader categories, such as to permit level, for publication. Reporting by permit holder is

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[3] Please see our earlier submission (referenced above) for a full discussion of our concerns about the problem definition, objectives, tests that need to be met, lack of assessment of costs and risks and the real problems that we should be addressing.

unlikely to be meaningful because permit holders may hold interests across multiple permits and fields.

MBIE has committed to work further with us on the details of how the proposal will be implemented. We should be able to work through these issues with them during that process.

Private pipeline information
In our discussions with MBIE after the first round of consultation, sector operators indicated that they were relatively comfortable with this suggestion.

Having said that, there are several conditions. Firstly, we are happy for the private pipeline data to be added to existing datasets to improve their coverage and accuracy. We would have concerns, however, if that private pipeline data was separated out and reported on as a distinct category. Given the small number of private pipelines and users, this could readily make commercially sensitive information such as an individual user's consumption possible to deduce. This would unfairly prejudice the owners of private pipelines who have made the investment, and full disclosure of volumes passing through those pipelines potentially impacts on the returns from that investment. We also question the value of seeking data from both suppliers and consumers. The data should generally be sourced from the party best placed to provide accurate information. Requiring reporting from both counterparties may create duplication, reconciliation issues and additional compliance costs without materially improving data quality.

We have advised MBIE before that providing this data should not be an additional burden for operators or users so should be done in such a way that utilises existing operational and metering systems wherever possible (i.e., do not ask the sector to do things in a different way). Automated reporting, standardised templates and alignment with existing GIC submissions would minimise implementation costs.

We also do not see a strong case for collecting or publishing pre-processing gas movement information. Such information would increase compliance costs and may reveal operational details that provide limited value for market transparency objectives.

Collection and use of gas contract information
We have the deepest and most acute concerns about the collection, storage and publishing of gas contract related information. These are heightened when it is proposed that full contracts be provided to and held by MBIE.

In our first submission, we stated the following in relation to this proposed requirement:

> "Pricing information in relation to gas contracts may not be that useful, or comparable, as all contracts are bespoke and represent the sum total of the terms and conditions. In short, gas contracts do not just sell a gas molecule. There are no standard contracts so the pricing structures reflect a range of commercial considerations such as optionality, risk-sharing mechanisms, volume, and price indexation. Comparing prices between these contracts

> would not therefore be meaningful. In our view, the public interest in disclosing this potentially misleading pricing information does not outweigh the importance of preserving the confidentiality of commercially sensitive data.
>
> Publicly exposing the terms of the contracts may create perverse incentives to manipulate them. Parties could downplay where they can get efficiencies and bargain to the highest risk, least efficient party's terms, thus potentially increasing prices for everyone.
>
> Finally, a lot of gas contract information is already provided to MBIE (via the Quarterly Retail Sales Survey (QRSS)) and relevant information is also given to the EA and Transpower." [4]

All of this commentary still stands but is now compounded by heightened anxiety about MBIE holding the full contracts. We are not confident that MBIE has the systems in place to adequately protect these highly commercially sensitive documents. They would be vulnerable to cyber-attacks and other possible data-breaches but could also be inadvertently shared internally or released publicly, including under the Official Information Act 1982. We also have doubts about whether MBIE has the capacity or capability to analyse these complex documents to a degree of sophistication that will give them any meaningful insights.

Beyond these practical concerns, we have some wider and more fundamental problems with providing the contracts in full. We consider that the requirement may be *ultra vires* and note the possibility that its legality will be tested. Under the newly introduced section 56AA of the Gas Act 1992 the Minister must be satisfied that any regulations requiring the disclosure of information are "necessary or desirable" for the purposes specified (e.g., helping industry participants or consumers to make informed decisions). Given the absence, so far, of any full policy analysis or regulatory impact assessment, industry has limited ability to understand or test the evidence supporting that threshold, the alternatives considered, or why the existing mechanisms are inadequate. We also note that the relevant empowering section for these regulations refers to "*information* about agreements to trade gas, including volumes traded, prices, parties to the agreement, and duration of the agreement" [5] but *not* the agreements themselves. If Parliament had intended for MBIE to see the full contracts, it would have said so.

Our concerns about confidentiality go beyond inadvertent disclosure. We have legitimate concerns around how highly commercially sensitive pricing, volume and contractual information could be accessed or used by other parts of government, particularly if the Crown subsequently becomes involved directly or indirectly in LNG procurement or other gas-market activities. Appropriate information barriers and protections against alternative use should be clearly established before compulsory disclosure begins. For

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4 See https://www.energyresources.org.nz/dmsdocument/366 at page 7.

5 Subsection (1)(a)(vi).

the avoidance of doubt, the following parts of the government should not have access to any gas contract information provided under these regulations:

a. *New Zealand Government Procurement* (a purchaser of 1 PJ+ of gas);
b. *New Zealand Petroleum & Minerals*, or any other government department acting under the Crown Minerals Act or legislation other than the Gas Act; and
c. any other government department or Crown agency.

The purpose(s) for which the information is being collected also need to be made explicit, clear and set out in detail. The information collected must only be used for the specific purpose(s) for which it was collected. The sector seeks written assurances in this regard given the magnitude and nature of this government intervention. Our expectation is that it will not be used to support future policy proposals such as market allocation measures or competition regulation.

On a related point, our members are also weary of a potential slippery slope. We can envisage a future where government, having got access to some information, decides it wants more, and then more still. There are cautionary tales from other parts of the energy system that should inform this debate. The refined fuel sector went through a similar process to improve transparency and openness a few years ago. This has resulted in significant costs falling on regulated parties, sometimes in the millions of dollars, with little or no discernible benefits and these costs flowing through to end consumers during a cost-of-living crisis. We would not want to see this bureaucratic overreach or consumer impact repeated here.

The collection of selected contractual information could improve MBIE's visibility of market developments but should be limited to what is genuinely required for market monitoring. Volumes and contract duration are relevant indicators of future gas availability and could reasonably form part of reporting. We question the relevance of pricing information to the stated objectives and, given its commercially sensitive nature, recommend that it be subject to higher thresholds for collection, confidentiality and publication.

For the larger (over 1PJ) contracts, which we agree would constitute 'major user' contracts, we recommend that a template be used to collect relevant information. This approach is being explored for the interim regulations and seems to be similar to what is being proposed for smaller contracts (i.e., 10 to 1,000TJ).

The thresholds for the smaller contacts may also need to be reconsidered. The lower band of 10TJ would result in large numbers of small contracts being captured and introduce a significant compliance burden - excess of 100 TJ per annum would more reasonably be considered 'medium sized' contracts.

Publication of gas contract information
Given the small size and concentration of the New Zealand gas market, we anticipate problems with the publishing of contracted gas information, even if it is aggregated. The fundamental issue is that either the figures are highly aggregated (e.g., one average price across all contracts), which would be totally meaningless, or they are broken down into categories which would allow commercially sensitive information to the extracted or inferred by matching datasets (i.e., if a supplier or user knows that they represent a certain percentage of a category within the market and there are only one or two others active in that part of the market, they will be able to deduce competitors volume or pricing information with a high level of accuracy). If it is not possible to strike the appropriate balance, the proposal to publish should be abandoned.

We also note that there is a question in the consultation as to whether the regulations should prohibit the publication of the gas supply contracts in full. To even imply that it might be acceptable to publish these private and highly confidential legal documents agreed between two willing parties shows an astounding ignorance of the nature of commercial transitions and how a competitive market operates. The ability to negotiate bespoke commercial arrangements in confidence supports efficient risk allocation, contracting innovation, competitive market outcomes and investment decisions.

Suggestions for other improvements

Having identified in our first submission that some of the key information problems in the market are access to information and the ability to interpret it, we recommended:

1) ***a single repository*** *for all of the key gas market information* (i.e., one agency that collates it all);

2) **a *dashboard*** being developed to present the data in a clear way and maintained by that agency. We note that this was one of the recommendations in the *Frontier Economics* report[6], and they suggested that GIC be tasked with doing this; and

3) ***other tools and education material*** to assist both consumers and commercial/industrial gas users to better understand the data that is being reported. This could include guides (e.g. '101 on gas data') and fact sheets.

Again, these recommendations remain valid. At the time we suggested that MBIE would be well placed to be the agency. On reflection, we now think that GIC would be a better choice. The energy sector information that MBIE publishes now is hard even for sector participants to find and is not presented in an accessible way, often just with links to excel spreadsheets. The GIC on the other hand presents data in a much more helpful and user-friendly way, mostly visually using graphs that can generally be manipulated and searched through fields. The GIC is also not subject to the Official Information Act in the same way that MBIE is as a government agency so is in a better position to protect sensitive information.

6 See 7.5.1 at page 109.

Suggestions for further refinement of these proposals

With interim regulations relating to gas supply contracts being developed now to be implemented from October 2026 for six months (to around April 2027), there is plenty of time to work through the details for these enduring settings to get them right.

We implore MBIE to work closely with the sector in progressing these proposals. We already have a commitment from them to do this in relation to our maturity-subclass proposal, but this should happen for the other requirements as well, particularly on the gas contract information.

In addition, the development and implementation of the interim regulations on gas contract information provides a unique opportunity to stress test this aspect of the enduring settings. We recommend that a thorough review and evaluation is done of the operation of the interim regulations to assess how effective and useful they have been as well as the costs they have imposed and any risks that have emerged. The review should cover how well the objectives were met during the interim period including what:

a. analysis was done and what the information was used for;
b. insights were gained from this analysis;
c. policy advice it directly contributed to;
d. government decisions were directly influenced by it; and
e. demonstrable benefits market participants gained from it.

If it is apparent from this review that the expected benefits to government and market participants did not materialise, or the costs and risks were too high, the enduring proposals must be reconsidered.

Next steps

We would welcome the opportunity to work further with officials on these proposals and the details of how they will be operationalised.

Yours sincerely

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