



Removing barriers to the development of Queensland's renewable hydrogen industry

Gas Supply and Other Legislation (Hydrogen Industry Development) Amendment Bill 2023 – Exposure Draft

Information Paper – March 2023



Queensland
Government

Introduction

Queensland's renewable hydrogen opportunity

Queensland's abundant wind and solar resources, along with our world-class ports and close proximity to south-east Asian markets, present the opportunity to build both an export and domestic hydrogen industry that will benefit all Queenslanders.

Renewable or 'green' hydrogen is produced from renewable energy and is globally considered as a key ingredient to meet decarbonisation targets. Queensland has the opportunity to become one of the world's largest producers and exporters of renewable hydrogen, while also contributing to the state's renewable energy targets of 70% by 2032 and 80% by 2035 and creating sustainable jobs in regions.

Queensland's emerging renewable hydrogen industry is being realised as early project proponents are completing feasibility studies and going beyond demonstration phase to larger commercial scale operations.

Queensland recognised this global economic opportunity early, releasing and implementing the *Queensland Hydrogen Industry Strategy 2019-2024* to increase Queensland's global competitiveness as a trusted supplier of renewable hydrogen.

To further support the growth of the renewable hydrogen industry, the Queensland Energy and Jobs Plan includes a range of actions. These actions include:

- commit up to \$15 million to supercharge, coordinate and further plan for renewable hydrogen hubs in key locations across the state.
- review the Hydrogen Developments – Guidance for local government in plan drafting
- review the Queensland Hydrogen Industry Strategy and release a revised strategy to support the sector's growth
- invest up to \$5 million to rollout a renewable hydrogen awareness program, including community hubs, over three years to inform communities about the uses and benefits of hydrogen
- investigate the potential for a renewable hydrogen gas target, in consultation with industry.

Regulatory barriers and reforms

In the Queensland Energy and Jobs Plan, the Queensland Government made a commitment to prepare legislation to support the effective regulation of hydrogen development and use.

All elements of the hydrogen value chain such as production, transport, storage, and distribution processes require effective regulatory oversight. In particular, pipelines will be essential for hydrogen production and export, and have been identified by industry as an emerging issue to be addressed to facilitate transportation to markets or large facilities (e.g. from a production facility to the export terminal).

There are immediate regulatory barriers to the licencing and development of hydrogen pipelines. Removing these barriers will assist proponents to overcome some of the complexity and risk in investing in the development of such projects and ensure an effective regulatory framework is in place.

The need to address regulatory barriers related to transporting renewable gases in pipelines has been recognised by Energy Ministers across Australia through their agreement to extend the current gas regulatory framework under the National Gas Law (NGL) and National Energy Retail Laws (NERL), to hydrogen, biomethane and other renewable gases. Under that framework, amendments to the NGL will extend the pipeline regime to transmission and distribution pipelines transporting a renewable gas. The new term, 'covered gases' proposed to the NGL includes natural gas, hydrogen, biomethane and synthetic methane, along with a blend of these gases.

In Queensland, the *Gas Supply Act 2003* (GS Act) and the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) provide the approvals pathway for proponents seeking to transport gas through pipelines. The GS Act and the P&G Act have been reviewed in consideration of the proposed changes to the NGL.

The Gas Supply and Other Legislation (Hydrogen Industry Development) Amendment Bill 2023 (the Bill) proposes to amend the GS Act and the P&G Act to provide a clear approvals pathway for hydrogen and liquid hydrogen carrier pipelines, and to implement changes approved nationally by Energy Ministers to bring hydrogen blends, biomethane and other renewable gases within scope of the NGL. An exposure draft of the Bill has been released for feedback.

Further details about these proposed amendments are provided below.

Whilst these proposed amendments will enable an effective regulatory framework for transporting renewable gases in pipelines, a further review of Queensland's regulatory framework is required to be undertaken to ensure all elements of the hydrogen value chain have an effective regulatory framework in place. Consultation on this work is proposed to be undertaken later this year.

Gas Supply Act 2003

Overview

The GS Act and the *Gas Supply Regulation 2007* (GS Regulation) regulate the supply and sale of gas though distribution pipelines in Queensland.

The GS Act provides for:

- a regime to licence gas distributors, including approving, amending, suspending, and cancelling licences
- infrastructure for distribution pipelines including customer connection services, meters and gas infrastructure works on public places
- supply of gas, including on-supply and particular pricing powers
- powers to ensure sufficiency of gas supply to essential services and other priority customers in the event of a shortage of natural gas supply to an area
- rights and responsibilities of gas distributors carrying out gas infrastructure work in publicly controlled areas such as roads
- ensuring the interests of customers are protected through the development and approval of industry codes. This includes the Gas Distribution Network Code, which is administered by the Queensland Competition Authority and sets out rules for gas retailers and distributors including disconnection and reconnection of customers, and restrictions on distributors' limitation of liability in customer connection contracts.

Proposed changes

The GS Act will be amended to maintain consistency with the amended NGL and gas elements of the NERL and subordinate instruments. Amendments will allow for hydrogen carriers and renewable gases to be prescribed by regulation as a ‘covered gas’ and thereby be captured under the Queensland regulatory framework. This will enable Queensland regulators to make decisions relating to the distribution of renewable gases under the GS Act.

Definitions for a ‘covered gas’, ‘primary gas’ and ‘gas blend’ will be brought into the GS Act to be consistent with the NGL. This will provide the regulatory framework to enable applications to be made for a distribution authority to transport a covered gas, and for conditions to be applied to distribution authority issued for a covered gas.

Requirements for ring fencing, connection contracts, metering and control apparatus, distribution officers, supply of reticulated gas, sufficiency of supply, distribution network codes, and general offences will apply to a covered gas to the same extent as if it were a processed natural gas.

Petroleum and Gas (Production and Safety) Act 2004

Overview

The P&G Act and its subordinate legislation, regulates tenure and safety matters for petroleum and gas exploration and production activities and infrastructure development, including petroleum facility and pipeline licensing (excluding distribution pipelines, which are regulated under the GS Act). Currently, hydrogen is not regulated under the P&G Act except to the extent as it is used or intended to be used as fuel gas.

The P&G Act is administered jointly by the Department of Resources and Resources Safety and Health Queensland (RSHQ).

Proposed changes

The Bill proposes to amend the P&G Act to extend the existing petroleum and gas pipeline licensing pathway to transmission pipelines for hydrogen, a hydrogen gas blend and other regulated substances, including methanol and ammonia. Transmission pipelines transport gas from processing or storage facilities over long distances to markets.

Note: Distribution pipelines, which generally deliver gas from transmission pipelines to customers will remain regulated under the GS Act.

These proposed amendments will provide a clear regulatory framework for the construction and operation of hydrogen transmission pipelines for these substances. For example, a hydrogen transmission pipeline could connect a hydrogen production plant to a storage facility at a port for export.

Proponents will be able to apply for a pipeline licence for hydrogen and secure tenure for transmission pipeline routes over private and public land.

A hydrogen pipeline cannot be constructed and operated on private land unless an easement or written agreement had been reached with the relevant landholders and native title holders. The existing land access framework of the P&G Act applies, which has detailed processes to follow to obtain permission to construct and operate the pipeline, and a range of arbitration and resolution measures in the event that agreement cannot easily be reached.

Additionally, all other regulatory requirements for a pipeline licence under the P&G Act will still be required including, for example:

- applying for a pipeline licence
- regional interest development approvals
- cultural heritage
- an approved environmental authority.

The Bill also clarifies several existing pipeline provisions relevant to pipeline licence holders.

Consequential amendments may continue to be identified to support these changes as drafting is finalised, including to safety provisions in the P&G Act.

Next steps

Feedback received from targeted consultation will be used to refine proposed amendments to the GS Act and P&G Act.

We would like to hear from you

We would like to hear from you about the changes to the GS Act and the P&G Act. You may wish to comment on all aspects of the proposed amendments, or only the issues that are of interest to you.

How to get involved

You can provide comments or make a submission about the Bill by email to
haveyoursayhydrogenqld@epw.qld.gov.au

Submissions close at 5pm on 6 April 2023

Privacy statement

Limited personal information collected through this consultation process may be used for related research, policy or planning functions. Unless authorised or required by law, your personal information will not otherwise be disclosed to any other third party without your consent.

Appendix – National Gas Law

National Gas Law

The National Gas Law (NGL) sets out the regulation of gas pipelines in Australia, with each jurisdiction in which the NGL applies enacting their own legislation to apply the NGL in its jurisdiction. Proposed changes to the NGL and the National Energy Retail Law (NERL) will enable market bodies to exercise their functions and powers in relation to covered gases, Natural Gas Equivalents (NGEs) and Prescribed Cover Gases (PCGs), and will allow the National Gas Rules (NGR) and National Energy Retail Rules (NERR) to be extended to these gases.

Key elements of NGL¹

Mechanism	National Gas Law Element
Pipeline access regime	Third party access, including ring-fencing and associate contract arrangements (East Coast, NT and WA)
Market transparency (East Coast and NT)	Bulletin Board, Gas Statement of Opportunities (GSOO), Victorian Gas Planning Report (VGPR), AER gas price reporting and non-pipeline infrastructure access
Facilitated gas markets (East Coast only)	Short Term Trading Market, Declared Wholesale Gas Market, Gas Supply Hub, Capacity Trading Platform and Day Ahead Auction
Regulated retail gas markets (East Coast only)	Retail gas markets administered by AEMO in NSW/ACT, SA, Qld and Vic
Regulatory sandbox	Provisions enabling market participants to test innovative approaches to the provision of services in the gas sector (which will come into effect once the pipeline reforms come into force)
Market bodies functions and powers	The NGL sets out the functions and powers of the AEMC, AER (or ERA in WA) and AEMO

The *National Gas (Queensland) Act 2008* applies the NGL and NGR in Queensland. The gas law and rules regulate third-party access to natural gas pipelines and establish the short-term trading market and a bulletin board for information on natural gas services. The gas law and rules are available on the Australian Energy Market Commission website.

Proposed changes to National Gas Law and National Energy Retail law

The proposed changes to the National Gas Law (NGL) and the National Energy Retail Law (NERL) are occurring at a national level, with a Bill proceeding through the South Australian Parliament to implement the changes. The *National Gas (Queensland) Act 2008* applies the NGL and National Gas Rules in Queensland.

The proposed amendments to the GS Act and P&G Act, which are the subject of this information paper, are separate to the proposed changes to the NGL and NERL. Feedback is only sought about the proposed amendments to the GS Act and P&G Act.

The proposed changes to the NGL and NERL will enable market bodies to exercise their functions and powers in relation to covered gases, Natural Gas Equivalents (NGEs) and Prescribed Cover Gases (PCGs) and will allow the National Gas Rules (NGR) and National Energy Retail Rules (NERR) to be extended to these gases.

Full details of the amendments to the National Gas Laws and Regulations is available from the [Department of Climate Change, Energy, the Environment and Water](#).

¹ [Extending the national gas regulatory framework to hydrogen, biomethane and other renewable gases - December 2022](#)