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Dear Russell

**ACCC DRAFT GREENFIELDS GUIDELINE FOR NATURAL GAS TRANSMISSION
PIPELINE DEVELOPMENT.**

The Australian Pipeline Industry Association (APIA) as the peak national body representing Australia's gas transmission sector welcomes the opportunity to comment on the Draft Natural Gas Transmission Greenfields Pipelines Guideline developed by the ACCC.

The Draft Guideline is an initiative of the ACCC which has been under development over a period when a number of important and independent reviews have focussed on broader policy issues on the investment climate for natural gas pipeline infrastructure. This has included an assessment of the potential for current regulatory settings to act as a disincentive to transmission pipeline development.

From APIA's perspective, the major benefit of the Draft Greenfield Guideline has been to highlight the fact that the ACCC acknowledges that:

- Uncertainties exist in relation to its regulatory role for new pipeline development; and
- It is important to create an environment in which investors in Greenfield pipeline developments can proceed with confidence.

The fact that the Gas Code is not suited to Greenfield pipeline development is now well recognised. This means that the solutions presented by the ACCC in its Draft Guideline – based on the current Code - are flawed. Solutions must therefore be sought outside the narrow framework imposed by the Code. APIA notes that a considerable section of the ACCC's commentary in the Draft Guideline relates to features of the current regime which, in the Commission's view, already create a favourable climate for pipeline investment. This view is not shared by investors, pipeline developers or their peak industry bodies. For example:

- The claimed flexibility for prospective investors is questionable because regulators have consistently argued that it cannot and will not give long term commitments;
- The assertion that (unlike the regulator) the investor may seek a review of an access arrangement at any time ignores practical issues associated with projects that may be inherently unsuccessful, ie where a regulatory review can do nothing to improve that situation;
- The sharing mechanisms referred to in the report cannot be symmetrical in practice; and
- The Commission's suggested mechanism for enabling the investor to enjoy some of the blue sky appears to be inconsistent with the Code as currently structured.

These issues are examined in the attached short submission.

Against the demonstrated deficiencies of the Code (reinforced in the ACCC's Greenfield Guideline itself), APIA and others have been promoting alternative regulatory approaches through both a major review of the National Gas Access Regime (including the Gas Code) and through adoption of so called regulation free periods for new development. APIA welcomes the fact that the desirability of alternative regulatory approaches and/or a major review of regulatory principles contained in the Code have been recognised in

two recent independent reviews (Productivity Commission Review into the National Access Regime and the CoAG Energy Market Review).

The proposed assessment and adoption of alternative mechanisms is in accord with our view that the gas access regime requires substantial change if arrangements that are genuinely conducive to Greenfield pipeline investment are to be implemented. The Draft Greenfield Guideline is deficient in this respect.

Against a background of active consideration of major change to the regulatory regime for new pipeline development, including the long promised review of the Gas Access Regime, APIA believes that further work towards finalising the ACCC Greenfield Guideline is not warranted. The Draft Guideline was developed in the context of the current regime and it is beyond the scope of the Guideline to canvas changes to the policy and regime itself. Whilst APIA agrees with this assessment, it nevertheless represents a major limitation to the value of the Guideline to potential pipeline investors and the use of resources to finalise the document can hardly be justified under the circumstances.

The only real test of the success or otherwise of the Greenfields Guideline is whether it has satisfied the market that unnecessary sources of regulatory uncertainty have been removed. For example, the truncation problem must be overcome and the industry is not convinced that either the Code or the Greenfield Guideline achieves this goal.

Given the fact that alternative broader policy options have now been widely canvassed through credible, independent reviews and will be taken forward over coming months, APIA sees no merit in devoting further scarce resources – at either the industry level or through the ACCC – towards finalising this non-binding Greenfield Guideline. It has served a useful purpose in identifying limitations of the Code, but the pipeline industry and APIA does not accept that the Guideline if finalised would address the existing policy deficiencies identified in the National Gas Regime itself.

Yours sincerely

Allen Beasley
Executive Director

Encl. APIA Comments on Greenfield Guideline.