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Further Submission on *Cross submissions on Options Paper*

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PEPANZ Submission: Cross submissions on Options Paper

Introduction

1. This document constitutes the Petroleum Exploration and Production Association of New Zealand's (PEPANZ) submission in respect of *Cross submissions on Options Paper*¹. This follows PEPANZ's original submission of April 2019 on the *Options for Information Disclosure in the Wholesale Gas Sector Consultation Paper*². We support the consultative manner in which the Gas Industry Company is engaging and the process of allowing cross submissions.
2. Established in 1972, we are the industry association of the upstream oil and gas sector. We proudly represent the companies that explore for, and produce, New Zealand's oil and gas resources. Our members produce an estimated 95 percent of New Zealand's petroleum. We also represent more than 50 associate member companies who provide a wide range of goods and services to the industry.

Responses to thematic issues raised by others

3. We have read the other submissions made on the original options paper, and this submission addresses certain themes raised by other submitters.
4. ***Many submitters expressed concern about the adequacy of information in relation to planned and unplanned outages and sought greater information disclosure.***
5. We understand this concern and agree that information about outages is important for a well-functioning gas market. That is why, along with the country's gas producers³ we are actively working to develop an industry-led disclosure framework in relation to planned and unplanned outages, consistent with the presumption in the Gas Act for industry-led solutions. This will likely focus on disclosure of information when bright line tests are met (as proxies for materiality on the market) to ensure that consistent information is made publicly available to all interested parties. We intend for this to satisfy concerns from other industry participants.
6. ***Many submitters preferred regulated disclosure requirements over a voluntary regime.***
7. We understand the concern about compliance under a voluntary regime, but make several remarks in response. Firstly, all upstream producers of gas agree that disclosure should be increased so there is no dissent amongst the sector. Secondly, in our current work to devise an industry-led solution we are actively considering how compliance can be ensured in the context of a voluntary industry-led regime. Thirdly, in the absence of such a mechanism, the threat of regulation (pending changes to the Gas Act, which we support⁴) provides a strong

¹ <https://www.gasindustry.co.nz/work-programmes/gas-sector-information-disclosure/consultation/cross-submissions-on-options-paper/>

² <https://www.pepanz.com/dmsdocument/104>

³ OMV, Todd Energy and Beach Energy (including Beach's JV partners Genesis Energy and New Zealand Oil & Gas).

⁴ <https://www.pepanz.com/dmsdocument/108>

incentive for compliance in itself. This should not be underestimated, and is at the heart of the co-regulatory model which has served the gas industry well across many fronts.

8. We also note the Legislation Design and Advisory Committee's *Legislation Guidelines*, as endorsed by Cabinet. The Guidelines emphasise that legislation should only be used when essential and non-regulatory solutions have failed. Particular caution is needed where the policy can be implemented equally well by non-legislative means – "*Legislation should only be made when it is necessary and is the most appropriate means of achieving the policy objective.*"⁵ We are aware that a regulated solution may ultimately be imposed next year, and can work with that, but this should not be seen as a default position before the GIC, Government, and other industry stakeholders take the time to assess how a well-developed industry-led code can deal with concerns over information disparity.
9. ***Some submitters have called for disclosure of outage information to be required when it is material to the market***
10. In principle, we agree that market-material information is important and should generally be disclosed. However, we are unlikely to support market-materiality test being the trigger for information disclosure, and this because of the inherently uncertain and subjective nature of such a qualitative assessment. This would lead to significant obligations in terms of analysis required, which would be open to subsequent criticism with the benefit of more time and hindsight. Instead, as a *proxy* for market materiality we prefer to devise a regime based on quantitative bright-line tests, likely relating to terajoules or percentage changes from specified baselines.

⁵ Chapter 2: LDAC Guidelines. <http://ldac.org.nz/guidelines/legislation-guidelines-2018-edition/>