

6 June 2023

Our ref: WD:E&R

Committee Secretary
Transport and Resources Committee
Parliament House
George Street
Brisbane Qld 4000

By email: [REDACTED]

Dear Committee Secretary

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

Thank you for the opportunity to provide feedback on the Gas Supply and Other Legislation (Hydrogen Industry Development) Amendment Bill 2023. The Queensland Law Society (QLS) appreciates being consulted on this important piece of legislation.

QLS is the peak professional body for the State's legal practitioners. We represent and promote over 14,000 legal professionals, increase community understanding of the law and help protect the rights of individuals. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

This response has been compiled by the QLS Energy and Resources Law Committee, whose members have substantial expertise in this area.

Executive Summary

QLS broadly supports the proposed approach and recognises the substantial benefit and efficacy to the existing and expanding hydrogen industry in amendment the proposed legislation to capture hydrogen and related substances.

The Bill provides for straight forward and sensible amendments to the *Gas Supply Act 2003* (Qld) (**GS Act**) and the *Petroleum and Gas (Production and Safety Act) 2004* (**P&G Act**).

Our comments on those amendments are few and relate to the proposed amendments to the P&G Act. We highlight in particular:

- QLS recommends that as part of the regulatory reform process, consideration be given to including H₂ Water as a substance for which a pipeline licence may be granted.

- If the intention is that pipelines carrying only the substances prescribed in the *Petroleum and Gas (General Provisions) Regulation 2017* (Qld) (**P&G Regulation**) are to be excluded from the definition of 'operating plant', then we consider that the P&G Regulation should go further and state that those substances are excluded compounds for the purpose of section 670 of the P&G Act.

Background

QLS notes the Bill essentially takes the approach of extending the existing regulatory framework for gas to hydrogen, by:

- amending the GS Act to allow for hydrogen carriers and renewable gases to be prescribed by regulation as a 'covered gas'. The proposed amendments to the GS Act achieve their objective by expanding the GS Act's remit from processed natural gas to include hydrogen, hydrogen blends, biomethane and other 'covered gases'. This will 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; and
- amending the *Petroleum and Gas (Production and Safety Act) 2004* (Qld) (**P&G Act**) to extend the existing petroleum and gas pipeline licensing pathway to transmission pipelines for hydrogen and hydrogen carriers.

Water involved in hydrogen production

We understand that the production of hydrogen, particularly green hydrogen by means of electrolysis, will require substantial quantities of water, both as an input and as a by-product of the production process (**H₂ Water**). As a consequence, hydrogen project proponents are expected to require water pipeline infrastructure.

Given the efficiency of reducing the number of easements required for a production facility, we would expect project developers to want to co-locate their H₂ Water pipelines with pipelines transporting hydrogen.

QLS recommends that consideration be given to including H₂ Water as a substance for which a pipeline licence may be granted.

This could be achieved by including H₂ Water in the definition of 'regulated hydrogen' which will ultimately be prescribed by regulation, as contemplated in the proposed new section 11A(c) of the P&G Act.

This would have the effect of ensuring H₂ Water constitutes a substance for which a pipeline licence may be granted.

QLS recognises an amendment of this nature would require careful consideration. Unlike 'produced water' (which is sourced from a hydrocarbon resource and is produced under the authority of a petroleum lease), H₂ water will likely be sourced from supply schemes, and transported in pipelines, governed by the *Water Act 2000* (Qld) and the *Water Supply (Safety and Reliability) Act 2008* (Qld) and any P&G Act amendments would need to be drafted so as to prevent legislative overlap.

This would not only create efficiencies that facilitate the development of hydrogen industry (which is the key objective of the proposed amendments). It would also avoid a situation where pipeline licence holders and underlying landowners and occupiers have rights and obligations relating to a regulated hydrogen pipeline but not an immediately adjacent water pipeline owned or operated by the same licence holder.

Excluded substances


The proposed amendments to subsection 670(6)(a) of the P&G Act appear to be intended to remove pipelines carrying only 'excluded compounds' from the scope of what constitute 'operating plant'. It does so in the same way that subsection 670(2)(d) of the P&G Act removes a pipeline carrying only produced water from the scope of what constitutes 'operating plant'.


The amendments to subsection 670(10) of the P&G Act create a two limb test to determine whether it is an excluded compound. A substance must be both: (a) prescribed as an excluded compound under subsection 11A(c) of the P&G Act; and (b) declared by regulation to be an excluded compound for the purpose of section 670 of the P&G Act.

If the intention is that pipelines carrying only the substances prescribed in the P&G Regulation are to be excluded from the definition of 'operating plant', then we consider that the P&G Regulation should go further and state that those substances are excluded compounds for the purpose of section 670 of the P&G Act.

Amendment of section 412

The proposed amendment to section 412 of the P&G Act to include a new subsection 412(e) should also amend subsection 412(d) to replace the full stop with a semi-colon and add the word 'and'.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via 



President