



Draft Recommendation on 14 July 2017 MPOC
transition change request



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1. Introduction and purpose

1.1 Purpose

This paper presents Gas Industry Co's draft recommendation (Draft Recommendation) in respect of the Maui Pipeline Operating Code (MPOC) change request submitted by First Gas Limited (First Gas) on 14 July 2017, the 'transition change request' (Change Request).

1.2 Gas Industry Co's role under the MPOC

Section 29 of the MPOC assigns Gas Industry Co a role in respect of any MPOC change request; to consult with the gas industry and determine whether or not to support it. Gas Industry Co's Memorandum of Understanding with First Gas (MoU) describes how its role in relation to change requests will be performed. Although the MoU is not legally binding, clause 2.3 of the MoU provides for Gas Industry Co to have regard to the objectives set out in section 43ZN of the Gas Act when it considers change requests. Gas Industry Co otherwise has broad discretion in determining what considerations could be relevant (consistent with its statutory powers and functions).

The MoU also sets out a process under which Gas Industry Co receives change requests; calls for submissions; issues a draft recommendation which includes an analysis of the issues under consideration and a cost-benefit analysis; considers further submissions; and makes a final recommendation to First Gas. Gas Industry Co can supplement this process, including by calling for cross-submissions.

A copy of the MoU is available on Gas Industry Co's website at <http://gasindustry.co.nz/dmsdocument/4144>.

1.3 Background

On 14 July 2017, Gas Industry Co received a request from First Gas Limited to make changes to the MPOC. The changes aim to facilitate transition to a new gas transmission access code (GTAC) when certain conditions are met. The Change Request, which comprises the change request application, and a marked-up copy of the MPOC, is available at <http://www.gasindustry.co.nz/work-programmes/mpoc-change-requests/background/change-requests-2012-2017/mpoc-change-request-14-july-2017/>.

First Gas's Change Request was submitted following its consultation with industry. First Gas's consultation documents and submissions from interested parties on the draft Change Request are available at <http://gasindustry.co.nz/work-programmes/transmission-pipeline-access/developing/gtac-transition-preliminary-draft-code-changes-to-transition-from-mpoc-and-rtc-to-gtac/>

During the period of Gas Industry Co's consultation with industry on the Change Request, Gas Industry Co set out its initial view as to how it might assess a formal GTAC proposal in the event that the Change Request is approved. Gas Industry Co's view is set out in the document *Gas Industry Co's proposed approach to GTAC assessment* available at <http://gasindustry.co.nz/work-programmes/transmission-pipeline-access/developing/gas-industry-co-assessment-of-the-gtac/>.

Submissions on the Change Request closed on Wednesday 9 August 2017. The seven submissions received are all available at <http://www.gasindustry.co.nz/work-programmes/mpoc-change-requests/background/change-requests-2012-2017/mpoc-change-request-14-july-2017/>.

Following the deadline for submissions on the Change Request, First Gas informed Gas Industry Co and stakeholders that it proposed to issue further detail regarding the process for procuring and implementing a new IT system that will accompany a new GTAC. The supplementary documents included a letter proposing a change to the Change Request submitted to Gas Industry Co on 14 July 2017. That change included an additional condition that First Gas has published the functional specifications and data interface of the IT system selected to implement the New Code no later than 120 business days before the New Code Date. The additional drafting was a response to concerns expressed in submissions on the Change Request regarding the timetable for third parties to integrate their systems with First Gas's new IT system. Submissions were invited by Thursday 7 September 2017. The four submissions received, and the supplementary documentation are all available at <http://www.gasindustry.co.nz/work-programmes/mpoc-change-requests/background/change-requests-2012-2017/mpoc-change-request-14-july-2017-supplementary-documents/>.

When making this Draft Recommendation, Gas Industry Co has assessed the Change Request with reference to the revised drafting following a brief period of industry consultation.

1.4 The Change Request

First Gas's Change Request provides that transition from the MPOC to a new GTAC can only occur if certain conditions have been met no later than 40 business days before a published date (termed the "New Code Date"). The conditions are as follows:

1. A substantive condition that requires Gas Industry Co to have published a determination that the new GTAC is materially better than the current terms and conditions for access to and use of gas transmission pipelines having regard to the objectives in section 43ZN of the Gas Act 1992 and any objectives and outcomes the Minister has set in accordance with section 43ZO of the Gas Act 1992 (the Government Policy Statement on Gas Governance 2008). This determination will be made "following an appropriate consultation process" that includes Gas Industry Co publishing a draft determination and Shippers and Welded Parties being asked whether they support the new GTAC.
2. Procedural conditions that require:
 - (a) First Gas to have published the new GTAC (termed the "New Code" in the Change Request) which includes provisions allowing:
 - (i) all Shippers using the Maui Pipeline, and VTC Shippers using the Transmission Pipelines governed by the VTC, to continue to transport gas through those pipelines; and
 - (ii) all Welded Parties may continue to connect their respective Pipelines to the Maui Pipeline,
on and after the New Code Date;
 - (b) the VTC and all transmission services agreements incorporating the VTC to terminate on the New Code Date;
 - (c) First Gas to have published the New Code Date on the TSP IX (OATIS);
 - (d) First Gas to have certified that the information technology systems required to implement the New Code are fit for purpose and ready to be put into production on the New Code Date; and

- (e) First Gas to have delivered executable contracts to:
- (i) each Shipper and VTC Shipper for it to continue to transport gas through the Maui Pipeline and the Transmission Pipelines covered by the VTC;
 - (ii) each Welded Party for it to continue to connect its Pipeline(s) to the Maui Pipeline; and
 - (iii) emsTradepoint to allow the Trading Platform to continue functioning, on and after the New Code Date.

As noted above, following submissions on the Change Request, First Gas proposed an amendment to the Change Request to include an additional condition that First Gas has published the functional specifications and data interface of the IT system selected to implement the New Code no later than 120 business days before the New Code Date. The additional drafting was a response to concerns expressed in submissions on the Change Request regarding the timetable for third parties to integrate their systems with First Gas's new IT system.

1.5 Appropriate counterfactual

Gas Industry Co's role involves it assessing the Change Request against the status quo and determining whether it should support the Change Request. Gas Industry Co's role under the MPOC change process is not to consider solutions proposed by third parties (other than the applicant) or assess the Change Request against Gas Industry Co's own alternative solutions. The status quo is the current MPOC. Accordingly, the counterfactual against which the Change Request is assessed is the most probable means for achieving the objective of the Change Request (transition to a new GTAC) under the current MPOC.

In the context described above, Gas Industry Co considers the following to be possible counterfactuals to the Change Request:

1. **MPOC change process** – First Gas (or another industry participant) proposing significant changes to the MPOC using the existing MPOC change process. Although (strictly speaking) this would not be a new GTAC, but rather a revised MPOC, it could achieve the same effect as a new GTAC. Submission of a change request under the MPOC is subject to Gas Industry Co's support (having regard to the Gas Act objectives) and First Gas's approval (not to be unreasonably withheld)
2. **An industry agreed GTAC** - First Gas presenting every party to transmission services agreements (TSAs) and interconnection agreements (ICAs) under the MPOC with a new TSA or ICA that terminates current TSAs and ICAs and references the terms of a new GTAC. The new GTAC would be binding on signature of the TSA or ICA. TSAs and ICAs that reference a new GTAC would also need to be presented to every party who is currently subject to the Vector Transmission Code (VTC).
3. **An imposed GTAC** - First Gas providing notice of termination of TSAs and ICAs under the MPOC (possibly in reliance on a common law right to terminate) and presenting industry with a new GTAC (i.e. an imposed GTAC).
4. **Gas Industry Co recommending regulation** - Gas Industry Co has the power to recommend to the Minister "reasonable terms and conditions of access to and use of gas transmission or distribution pipelines".

For the purpose of this paper, we have discounted an imposed GTAC and Gas Industry Co recommending regulation. All indications from First Gas to date are that it would not seek to impose a new GTAC on its customers. Instead, it favours transition to a new GTAC through a process of engagement. We do not consider that regulation should be recommended at this

point in time as section 43N(1)(c) of the Gas Act has not been met – that the objective is unlikely to be satisfactorily achieved by means other than regulation. Accordingly, we consider that there are two credible counterfactuals to achieve the objective of the Change Request – an MPOC code change or an industry agreed GTAC.

1.6 Invitation for submissions and next steps

Gas Industry Co invites submissions on this Draft Recommendation. Submissions are due by 5pm, Monday 16th October 2017. Please note that submissions received after this date may not be considered.

Gas Industry Co values openness and transparency, and usually places submissions on our website. If you intend to provide confidential information in your submission, please discuss this first with Tim Kerr at Gas Industry Co (04 494 6589).

Following consideration of submissions, Gas Industry Co will issue its Final Recommendation. The target date for this is Monday 30 October 2017, but this is subject to any extra steps arising from submissions received.

2. Process and legal issues

2.1 Gas Industry Co role

All submissions suggested alternative options for the conditions for transition to a new GTAC in the Change Request. Suggestions included:

1. A preference for the inclusion of subjective or other criteria in the substantive condition e.g. that parties approve a new GTAC by a vote or have no “material” or “legitimate” concerns (Methanex, Trustpower, Genesis, Vector).
2. Further detail regarding the substantive condition (e.g. the consultation process and Gas Industry Co’s approach to assessment of a new GTAC). Many submitters considered that this should be formalised in the Change Request or a MoU (Contact, Greymouth, Trustpower and Nova).
3. Alternative timeframes for commencement of a new GTAC following the satisfaction of the procedural conditions (Contact, Trustpower, Greymouth).

Whereas Gas Industry Co’s Gas Act role, in relation to possible gas governance arrangements, requires the consideration of all practicable options before making a recommendation to the Minister, the MPOC role is more constrained. It does not provide for Gas Industry Co to require amendments to a change request, or to impose what it sees as a better alternative, or to require other MPOC changes to be made. Gas Industry Co only considers a change request against the status quo. Our role is limited to supporting or not supporting a change request following appropriate industry consultation and having regard to the objectives in section 43ZN of the Gas Act. A view that there may be a better alternative should not, of itself, lead to Gas Industry Co declining to support a change request.

2.2 External considerations

Some submitters considered that there is a need for a formal document to describe, in more detail, Gas Industry Co’s role under the proposed MPOC code change (Contact, Greymouth, Nova and Trustpower). These submitters considered that this should take the form of a memorandum of understanding (MoU) between Gas Industry Co and First Gas. One submitter (Greymouth) considered that a MoU should be subject to consultation and preferred all signatories to both codes being parties to a MoU.

A MoU is ancillary to the Change Request and should be considered separately. Additionally, it is unclear to us why there needs to be a MoU for Gas Industry Co’s assessment of the new GTAC. A new GTAC cannot come into force until the substantive condition (Gas Industry Co’s determination) has been met. During the period of consultation with industry on the Change Request, Gas Industry Co set out its initial view as to how it might assess a formal GTAC proposal in the event that the MPOC Transition Code Change Request is approved, including its proposed consultation process.¹ That document fulfils a similar role to the current MoU under the MPOC.

¹ This is set out in a paper titled *Gas Industry Co’s proposed approach to GTAC assessment* that was made available to industry for comment.

We have received comments on Gas Industry Co's approach to assessment of a new GTAC in submissions on the Change Request and separately.² We will take those comments into account when finalising our approach to assessment of a formal GTAC proposal if the Change Request is approved.

² Greymouth and Methanex commented on Gas Industry Co's approach to assessment of a new GTAC in their submission on the Change Request and in separate submissions.

3. Analysis

This section provides an analysis of the key stakeholder comments arising from submissions. A response to other comments raised by submitters is attached as Appendix A.

3.1 Substantive condition

The substantive condition for transition from the MPOC to a new GTAC requires Gas Industry Co to have published a determination that the new GTAC is materially better than the current terms and conditions for access to and use of gas transmission pipelines having regard to the objectives in section 43ZN of the Gas Act 1992 and any objectives and outcomes the Minister has set in accordance with section 43ZO of the Gas Act 1992 (the Government Policy Statement). This determination will be made “following an appropriate consultation process” that includes Gas Industry Co publishing a draft determination and Shippers and Welded Parties being asked whether they support the transition.

Some submitters considered that:

1. The substantive condition is inadequately defined and requires further detail (Methanex, Trustpower).
2. The substantive condition should include subjective or other criteria e.g. that parties approve a new GTAC by a vote or have no “material” or “legitimate” concerns (Methanex, Trustpower, Genesis, Vector).
3. Gas Industry Co’s proposed approach to assessment of a new GTAC should be addressed in a MOU (Contact, Greymouth, Trustpower and Nova).

The substantive condition contains more detail than the current criteria in section 29.4 of the current MPOC that applies to code changes. Therefore, we do not consider that the substantive condition is inadequately defined. Additionally, during the period of consultation with industry on the Change Request, Gas Industry Co set out its initial view as to how it might assess a formal GTAC proposal in the event that the Code Change is approved.³ As previously mentioned, that guidance note performs a similar role to the current MoU under the MPOC in that it describes Gas Industry Co’s assessment criteria and process that will apply to its consideration of a new GTAC.

As mentioned in the preceding section, Gas Industry Co’s role is to assess the Change Request against the status quo. Alternative means for achieving the objectives of the Change Request raised in submissions, such as the inclusion of additional subjective or other criteria within the substantive condition, should not influence Gas Industry Co’s decision on the Change Request.

For the reasons mentioned in the preceding section, we do not consider that submitters’ request for a MoU is directly relevant to Gas Industry Co’s decision on this Change Request.

We think that the proposed substantive condition, in particular the “materially better” test, builds on Gas Industry Co’s assessment that would apply to code changes under the MPOC. The higher standard of “materially better” reflects the significance of the milestone of a new GTAC. As

³ This is set out in a paper titled *Gas Industry Co’s proposed approach to GTAC assessment* that was made available to industry for comment.

indicated in our proposed approach to the GTAC assessment, we will be looking for a significant improvement on the current arrangements.⁴

3.2 Procedural conditions

The procedural conditions describe the documents and systems that must be in place and notified to industry participants before the New Code Date can be notified.

Submitters considered that:

1. Certification of the IT systems required to implement the New Code should explicitly recognise the need for a reasonable period of time for user testing and training (Trustpower).
2. A number of drafting changes should be made to address errors (Greymouth and Trustpower).
3. The condition requiring “First Gas to have certified that the information technology and other systems required to implement the New Code are fit for purpose ready to be put into production on the New Code Date” requires better definition and should include an obligation to demonstrate that the system is fit for purpose from a user perspective and that there is adequate technical training and support (Nova).
4. First Gas has not provided adequate detail to understand how its new IT system will fit within its wider infrastructure as well as other concerns regarding the level of customisation of the IT system and the timeframe for its implementation (Genesis).
5. Contact referenced the need for confirmation that existing welded party agreements and supplementary agreements under the VTC would continue (although it was not clear whether this was a request for an additional procedural condition).

The timeframes for user testing and training are considered in section 5 of this paper.

Our comments on Greymouth’s and Trustpower’s drafting changes are as follows:

1. We do not agree with Greymouth’s suggestion that it is impossible to satisfy the condition in clause 22.16(c) of the Change Request.⁵ That clause simply requires the necessary arrangements to be in place to effect termination of the VTC on the New Code Date.
2. We do not agree with Greymouth’s submission that there is a need for clause 22.16(f) to link to the New Code.⁶ We think that incorporation of the New Code is clear through clauses 22.16(a) and 22.16(f).⁷
3. We think it is necessary to have publication of the New Code Date as a condition (i.e. we disagree with Greymouth’s view). Otherwise, First Gas could inform parties of the New Code Date a period of time after the conditions have been satisfied (i.e. the notice period would be compressed).
4. Greymouth considers that the termination of the MPOC and associated contracts should be mandatory once the conditions have been met (i.e. the “may” in clause 22.16 should be changed to “must”). From a practical perspective, if First Gas has published a New Code, and the other conditions have been satisfied, then industry is effectively committed to following

⁴ As indicated in the paper titled *Gas Industry Co’s proposed approach to GTAC assessment* that was made available to industry for comment.

⁵ Clause 22.16(c) of the Change Request requires “the VTC and all transmission services agreements incorporating the VTC shall terminate on the New Code Date”

⁶ Clause 22.16(f) of the Change Request requires TSP to have delivered an executable contract to Shippers, Welded Parties and emsTradepoint on and after the New Code Date.

⁷ Clause 22.16(a) requires publication of the New Code on the transmission information exchange on and after the New Code Date.

through with the new arrangements. It is unclear why First Gas would go through the process of satisfying the conditions and then decide not to effect termination of TSAs and ICAs (i.e. complete the transition to a new GTAC). The use of the word “may” could be beneficial to provide flexibility to address any unforeseen issue that arises, but it would be our expectation that transition would occur on the New Code Date.

5. We agree with Greymouth’s suggestion that the drafting in clause 22.16(a) should not refer to “*include*”, unless the wording in the Change Request is the actual wording to be included in the New Code. We consider that this issue is technical in nature and could be addressed without submission of a revised Change Request.
6. We agree with Trustpower’s suggestion that, in clause 22.16(d), the “and” at the end of the clause should be removed and inserted at the end of clause 22.16(e). This change is minor and could be made without submission of a revised Change Request.

In terms of Nova’s suggested revisions to the condition requiring certification of the IT system, we consider those to be alternative conditions that are outside the scope of Gas Industry Co’s assessment. However, we have considered Nova’s general concern that clause 22.16(e) is inadequately defined. We think that a statement regarding the suitability of the IT system, or its readiness, needs to be framed generally to cover a wide range of possibilities. Accordingly, it is not clear to us that the proposed drafting is inadequately defined.

We consider that Genesis’s concern regarding the adequacy of information is a concern around the scope of information that First Gas will make available. We think that these are detailed matters to be worked through as part of the IT implementation rather than specific concerns that should influence a decision on this Change Request. In our view, it would be impractical for First Gas to specify a detailed “road map” for the IT procurement and implementation at this point in time. The timeframes that First Gas has provided are necessarily general to account for a number of contingencies (e.g. the form of a new GTAC, Gas Industry Co’s assessment of the new GTAC).

Although Contact’s concern regarding the continuation of welded party agreements and supplementary agreements under the VTC is not within the scope of Gas Industry Co’s role in respect of this Change Request, we note that a new standard form welded party agreement (an Interconnection Agreement for Delivery Points) has been made available to stakeholders soon after the consultation on this Change Request closed. First Gas confirmed, in its “Single Code Options Paper” released in November last year, it intends to honour existing supplementary agreements. Accordingly, we consider that First Gas’s position in relation to these agreements has been made clear.

In summary, although we agree with some of Greymouth’s and Trustpower’s drafting concerns, we do not consider that comments on the procedural conditions raise significant issues that should cause Gas Industry Co not to support the Change Request.

3.3 Notification of New Code Date

The New Code Date cannot be less than 40 business days after the substantive and procedural conditions have been satisfied and not less than 120 business days after publication of the functional specifications and data interface of the IT system selected to implement the New Code.

Submitters considered that:

1. 40 business days was not an adequate timeframe for participants to integrate their current systems and processes to align with a new GTAC (Contact, Greymouth, Trustpower and Vector).
2. An extended timeframe should apply to the satisfaction of all procedural conditions, not just publication of a functional specification and user interface. 90 business days was suggested (Greymouth, Trustpower).

We note that First Gas's original drafting did not include the requirement that the functional specification and data interface be published no later than 120 business days before the New Code Date. That additional condition was added following the submissions provided by industry participants who were concerned with the timeframe for IT system integration.

Trustpower and Greymouth's suggestion that all conditions be satisfied no later than 90 business days before the New Code Date cannot be recommended as a non-material amendment to the Change Request. However, Gas Industry Co should consider whether First Gas's Change Request allocates sufficient time for industry participants to be ready on the New Code Date.

We provide a response to submitters' concerns regarding the timeframe for integration of third party systems and processes in section 5 of this paper.

4. Assessment

4.1 Assessment against the Gas Act objectives

The primary focus of Gas Industry Co's assessment of whether it supports First Gas's Change Request is an assessment of the proposed change against the objectives in section 43ZN of the Gas Act. That is reflected in clause 2.3 of the MoU.

With the exception of the "efficiency" element of the principal objective⁸, the Change Request is neutral in respect of the other objectives in section 43ZN.⁹ That is because this Change Request simply proposes a process for terminating TSAs and ICAs under the MPOC for the purpose of transition to a new GTAC – it does not prescribe what the terms of a new GTAC will be.

We consider that allocating the substantive assessment of the new GTAC to an independent decision maker (Gas Industry Co) that is required to assess the new GTAC against a set of objective principles:

1. Reduces the opportunity for one or more participants delaying the transition process in order to seek more favourable terms ("hold-out").
2. Reduces the risk of any one industry participant being able to exert a disproportionate level of influence on the form of a new GTAC.
3. Establishes a process that ensures the effect of a new GTAC on the wider gas industry (not just parties to a new GTAC) is given appropriate weight.

We consider that the above points address material concerns with the ability to implement a new GTAC through industry agreement (a probable counterfactual). Accordingly, we consider that the substantive condition promotes efficiency when compared to an industry agreed GTAC.

We consider that the timeframe for notification of a New Code Date is also relevant for the efficiency objective. We discuss the timeframe risks in section 5 of this paper.

4.2 Government Policy Statement

We consider that the GPS objective of "fairness" is affected by this Change Request, but the Change Request is neutral in respect of the other objectives and outcomes in the GPS.

In our view, if approved, First Gas's Change Request will better meet the "fairness" objective in the GPS in the following respects:

1. A "materially better" standard is a more appropriate standard to apply to an assessment of a new GTAC (as opposed to simply "better" as would be applied if a new GTAC were to be implemented using the current MPOC code change process). The new GTAC may introduce substantial changes to the terms and conditions of access to, and use of, the gas transmission system. A higher standard of "materially better" provides assurance that there are material improvements for the industry as a whole arising from transition to a new GTAC.

⁸ The principal objective is contained in section 43ZN(a) of the Gas Act 1992 and includes the delivery of gas to existing and new customers in an efficient manner.

⁹ The other objectives are unlikely to be neutral in the context of any assessment of a new GTAC.

We consider that a material improvement is desirable given the level of resource that industry is committing to the development of a new GTAC.

2. It reduces the risk of any one industry participant being able to exert a disproportionate level of influence on the form of a new GTAC (which would be possible under a GTAC implemented by industry agreement) by requiring a new GTAC to be assessed by an independent decision maker (Gas Industry Co) that is required to assess the new GTAC against a set of objective principles.
3. It establishes a process that ensures the effect of a new GTAC on the wider gas industry (not just parties to a new GTAC) is given appropriate weight. Such broader considerations may not be given due weight under a new GTAC implemented by industry agreement.

We consider that the Change Request provides a fairer process for transition to a new GTAC for industry as a whole when compared to transition to a new GTAC through the MPOC change process or by industry agreement (the probable counterfactuals).

We consider that the timeframe for notification of a New Code Date is also relevant for the fairness objective under the GPS. We discuss the timeframe risks in section 5 of this paper.

4.3 Costs and benefits

Gas Industry Co's analysis of costs and benefits of the Change Request is undertaken by reference to the status quo.

The benefits referred to in First Gas' Change Request focus mainly on the benefits associated with the introduction of a new GTAC. In our view, the scope of the cost and benefit analysis for this Change Request should be limited to the inclusion of provisions in the MPOC that provide for the circumstances in which transition to a new GTAC will occur, not the effect of a new GTAC (that is currently subject to consultation).

We do not consider that it is possible, or appropriate, to undertake a quantitative assessment of costs and benefits associated with the Change Request.

In our view, the benefits of the Change Request are an efficient process for the transition from the MPOC to a new GTAC that avoids the risk of delay or hold-out, while providing fairness to the industry as a whole due to the substantive condition requiring approval of an independent third party (Gas Industry Co) based on a set of objective principles. At the same time, the Change Request provides assurance that there are material improvements for the industry as a whole arising from transition to a new GTAC through the "materially better" threshold.

We consider that a potential cost associated with the Change Request to be the potential for future industry disagreement regarding the conditions of transition. Although participants have referred to concerns around the timeframes for changes to systems and processes, as discussed in section 5 of this paper, we do not consider that those concerns outweigh the benefits associated with this Change Request. Furthermore, the costs may not occur if First Gas provides adequate time for integration of third party systems and processes. In our view, First Gas is well incentivised to provide adequate timeframes to avoid any disruption that would follow if participants cannot reasonably be expected to be ready.

An additional potential cost may be the introduction of a new GTAC that is inferior to an industry agreed GTAC. We consider the likelihood of this potential cost materialising to be low given that an industry agreed GTAC would need to cater to each counterparty's demands, and some of the resulting compromises would likely be to the detriment of overall market efficiency.

We accordingly consider that the Change Request has an overall net benefit when compared with the status quo.

5. Draft recommendation

We make a Draft Recommendation to support the Change Request for the reasons set out above and particularly:

1. The Change Request improves efficiency when compared to a GTAC implemented through industry agreement for the following reasons:
 - (a) There is a reduced opportunity for one or more participants delaying the transition process in order to seek more favourable terms (“hold-out”).
 - (b) It reduces the risk of any one industry participant being able to exert a disproportionate level of influence on the form of a new GTAC through allocation of assessment of the GTAC to an independent third party (Gas Industry Co).
 - (c) It establishes a process that ensures the effect of a new GTAC on the wider gas industry (not just parties to a new GTAC) is given appropriate weight.
2. The Change Request promotes fairness for the following reasons:
 - (a) A “materially better” standard is a more appropriate standard to apply to an assessment of a new GTAC (as opposed to simply “better” as would be applied if a new GTAC were to be implemented using the current MPOC code change process). The new GTAC may introduce substantial changes to the terms and conditions of access to, and use of, the gas transmission system. A higher standard of “materially better” provides assurance that there are material improvements for the industry as a whole arising from transition to a new GTAC. We consider that a material improvement is desirable given the level of resource that industry is committing to the development of a new GTAC.
 - (b) Unlike an industry negotiated GTAC, the Change Request avoids the risk of any one industry participant being able to exert a disproportionate level of influence on the form of a new GTAC by allocating the substantive assessment of the new GTAC to an independent decision maker that is required to assess the new GTAC against a set of objective principles.

We have given particular attention to submitters’ concerns regarding the timeframe for integration of third party systems and processes. Gas Industry Co can only assess the timeframes that First Gas has proposed, not alternative timeframes proposed by third parties.

First Gas has clarified that the 40 business day notice period is not intended to be the period for shippers to integrate their systems with the new GTAC – it is merely a final check that the introduction of the new GTAC can proceed on the New Code Date.¹⁰ Although First Gas and industry participants are currently working on the assumption that the New Code Date will be 1 October 2018, that timetable is subject to a number of contingencies (which First Gas has acknowledged). Accordingly, we consider that transition to a new GTAC is dependent on First Gas and other industry participants working together constructively. At this point, we think that all parties are incentivised to proceed in that manner.

¹⁰ First Gas provided this clarification in its letter to Gas Industry Co dated 30 August 2017 and its Information Paper for stakeholders dated 29 August 2017. These documents are available at <http://gasindustry.co.nz/work-programmes/mpoc-change-requests/current-mpoc-change-request-2017/mpoc-change-request-14-july-2017-supplementary-documents/>.

Industry is generally supportive of a process to transition to a new GTAC. In order for this to occur, and before any implementation process can be specified in detail, there needs to be clarity regarding the form of a new GTAC. We consider this Change Request to be a critical 'first step' that ensures that there is a clear process for establishing the form of a new GTAC.

Our view is that possible implementation risks are outweighed by the clear benefits associated with this Change Request.

Our expectation is that all prospective parties to a new GTAC will be diligent and proactive in ensuring that they understand the interface and capabilities of the new IT system and discuss any difficulties that they anticipate with First Gas as soon as possible. Gas Industry Co intends to closely monitor the readiness of industry participants to function under the GTAC, including seeking confirmation from each industry participant that:

1. Key staff have attended First Gas's training sessions and workshops.
2. Business processes have been mapped to identify all necessary process and system changes (including IT development).
3. Customers have been advised of any consequential changes to the services that they receive.

We expect that industry participants will provide Gas Industry Co with all necessary information in order for it to monitor industry participants' readiness.

Appendix A Summary of Submissions

The purpose of Appendix A is to provide a response to other comments raised by submitters not expressly responded to in the Paper.

Appendix A contains a responses for two separate consultations. The first table relates to consultation on First Gas’s original Change Request. Submissions on that consultation were received by 9 August 2017. The second table relates to consultation on supplementary information provided by First Gas. Submissions on the second consultation were received by 7 September 2017.

MPOC Change Request

Submissions were received from the following stakeholders:

1. Contact Energy Limited
2. Genesis Energy Limited
3. Greymouth Gas New Zealand Limited
4. Methanex New Zealand Limited
5. Nova Energy Limited
6. Trustpower Limited
7. Vector Limited

Submitter	Comments	Response
Methanex	<p>In terms of Gas Industry Co’s proposed approach to the assessment of the GTAC referred to in the document titled <i>Gas Industry Co’s proposed approach to GTAC assessment</i> published on 2 August 2017:</p> <ol style="list-style-type: none"> 1. Methanex does not agree with the hierarchy of objectives 2. Gas Industry Co’s proposed “overall assessment” approach carries with it a risk of an unfair outcome for particular stakeholders or groups of stakeholders – a key component of the GTAC could be materially worse than the status quo but the GTAC is still approved by Gas Industry Co. That does not accord with paragraph 9 of the GPS. All key components should be materially better. 3. The Gas Act and GPS address the generalities of the governance of gas pipelines – they do not provide sufficient 	<p>We note that Methanex commented on Gas Industry Co’s approach to assessment of a new GTAC in its submission on the Change Request and in a separate submission. Gas Industry Co will consider Methanex’s comments on the proposed approach to assessment of a new GTAC if this Change Request is approved.</p>

Submitter	Comments	Response
	<p>guidance as to how Gas Industry Co should consider commercial and operational implications arising from the replacement of two pipeline codes with a single code. Gas Industry Co's proposed approach to assessing the GTAC is incomplete and flawed.</p>	
Trustpower Limited	<p>Trustpower suggests that there should be complete transparency of outcomes of Gas Industry Co's assessment, including any refinements made by First Gas.</p> <p>The IT system should be sufficiently flexible to be able to incorporate future developments.</p>	<p>We note that the Change Request requires Gas Industry Co to publish its decision on the Change Request. That document will be accompanied by reasons.</p> <p>The flexibility of any new IT system is a matter for First Gas to consider.</p>
Greymouth Gas New Zealand Limited	<p>As the GTAC will affect signatories to both the MPOC and the VTC, it would be appropriate to have a separate mechanism rather than an extension of the MPOC arrangements.</p> <p>GGNZ broadly agrees with the paper titled <i>Gas Industry Co's proposed approach to GTAC assessment</i> that the consultation on the new GTAC should be similar to an MPOC Change Request consultation, but considers that "appropriate consultation" should be debated amongst signatories with a view to including further requirements. GGNZ does not consider that consultation on a draft determination is "appropriate consultation" and the effect of the Change Request is that the GTAC would not require input from industry participants until First Gas puts it to Gas Industry Co for review.</p> <p>Greymouth considers that the "materially better" standard is appropriate, but disagrees that the standard should be applied to the GTAC in aggregate because that could mean that parts of the code could be worse than the status quo.</p>	<p>Gas Industry Co does not have a role in relation to changes to the VTC. However, we note that the Change Request does not prevent VTC parties from providing input into a new GTAC.</p> <p>We note that Greymouth commented on Gas Industry Co's approach to assessment of a new GTAC in its submission on the Change Request and in a separate submission. Gas Industry Co will consider Greymouth's comments on the proposed approach to assessment of a new GTAC if this Change Request is approved.</p>
Contact Energy Limited	<p>Contact notes that although "materially better" appears to be a relatively low threshold, the two codes address distinct user groups with different drivers on two different pipelines. Guidance on the consultation and assessment process needs to be fully understood.</p>	<p>During the period of consultation with industry on the Change Request, Gas Industry Co set out its initial view as to how it might assess a formal GTAC proposal in the event that the Change Request is approved, including its proposed consultation process. We invite Contact to consider whether Gas Industry Co's guidance addresses its concerns when</p>

Submitter	Comments	Response
		providing comments on the Draft Recommendation.
Genesis Energy Limited	<p>Genesis agrees that it is necessary to insert a termination provision in the MPOC to facilitate transition. However, it considers that the Change Request should be deferred.</p> <p>Genesis considers that the timing of the Change Request is fundamentally flawed as it is difficult to expect industry participants to support a Change Request that will provide the green light for the new GTAC when the final design is uncertain (including the impact on the cost of allocation and the cost of implementation). Genesis notes that First Gas's design is fluid at this point in time.</p> <p>Genesis considers that requiring industry participants to take a view on the proposed Change Request without all the facts is inconsistent with the objectives of code transition – a seamless transfer, certainty to all parties, and the ability to influence the outcome. The Change Request should be put to industry once content and form of the GTAC is understood.</p>	<p>A new GTAC will still need to pass Gas Industry Co's assessment under the Change Request. That assessment will consider submissions from industry participants. We do not interpret the Change Request as giving the new GTAC the "green light".</p> <p>The timing of the Change Request is not a matter that is within Gas Industry Co's control. If a change request is submitted, Gas Industry Co is required to consider that change request in accordance with the process in the MPOC and MoU.</p>
Nova Energy Limited	<p>Nova considers that First Gas should be confident enough to allow a third party to review the systems as a condition of the expiry of the MPOC. There is a risk that the IT system is fit for purpose from First Gas's perspective, but not for users. There are no consequences for First Gas arising from certification.</p>	<p>Whether third party advice is incorporated into certification of the IT system is a matter for First Gas to consider. Although retaining First Gas's responsibility for certification would seem to be desirable.</p>
Vector Limited	<p>Vector has concerns regarding the daily nominated capacity access product for the following reasons:</p> <ol style="list-style-type: none"> 1. Additional complexity at the transmission delivery point, and to a lesser extent, at a zonal level. That is because shippers will need to forecast two nominations instead of one for each customer. 2. Daily nominated capacity will not promote greater accuracy regardless of whether nominations are at delivery point, or zonal level. Shippers will be incentivised to avoid overrun costs rather than providing First Gas with robust information on demand. 	<p>Vector's concerns regarding the access products are matters to be considered as part of the development of the GTAC and any assessment of the GTAC that Gas Industry Co makes.</p> <p>We consider that Gas Industry Co's assessment will focus on assessing the new GTAC against the current access arrangements rather than assessing different IT systems.</p>

Submitter	Comments	Response
	<p>3. Priority rights will transfer risk from First Gas to parties who are unable to manage those risks. Shippers and customers do not have sufficient information to assess current and future risks of congestion. First Gas has that information.</p> <p>4. It is unclear how priority rights will be used to manage a physical constraint on a pipeline.</p> <p>Given that Vector and MDL were considering replacement of OATIS, Vector does not consider that a new IT system should influence Gas Industry Co's decision on whether the new GTAC is materially better.</p>	

MPOC change request supplementary documents

Submissions were received from the following stakeholders:

1. Genesis Energy Limited
2. Greymouth Gas New Zealand Limited
3. Methanex New Zealand Limited
4. Trustpower Limited

Submitter	Comments	Response
Genesis	<p>Genesis considers that First Gas should have a "plan B" if timelines slip and emphasises the importance of communicating with pipeline users. Genesis suggests a transition phase for pipelines users to enable them to get comfortable with the new system (e.g. reduced overrun fees).</p> <p>In terms of shipper involvement in the IT process, Genesis prefers a reference group to inform the evaluation. The involvement of multiple shippers will account for a wider range of views</p>	<p>Gas Industry Co considers that the existence of a "plan B" if the timeframes slip, any transition phase and the extent of shipper involvement in the IT procurement are outside the scope of Gas Industry Co's assessment (but are matters that First Gas could consider).</p>
Greymouth	<p>Greymouth considers that the proposal reallocates risk from First Gas to industry – First Gas does not have to incur expenditure until the last item outside of its control is achieved. Greymouth notes the "efficiency" and "fairness" objectives.</p>	<p>Our view is that all participants (including First Gas) have spent significant time and resource on the development of a new GTAC to date.</p> <p>We consider that "fitness for purpose" is a general concept that covers a wide range of possibilities. The issue that Greymouth raises seems to be one of interpretation rather than</p>

Submitter	Comments	Response
	Greymouth is concerned with First Gas's interpretation of "fit for purpose" in the procedural conditions (i.e. that the IT system be capable of carrying out core functionality).	the appropriateness of the condition. We noted the potential for disputes regarding the conditions as a potential cost associated with the Change Request in the paper.
Trustpower	Participants should be given an opportunity to ensure that they can operate under the new systems prior to commencement.	Gas Industry Co considers that any transition phase is outside the scope of Gas Industry Co's assessment (but is a matter that First Gas could consider).

ABOUT GAS INDUSTRY CO

Gas Industry Co is the gas industry body and co-regulator under the Gas Act. Its role is to:

- develop arrangements, including regulations where appropriate, which improve:
 - the operation of gas markets;
 - access to infrastructure; and
 - consumer outcomes;
- develop these arrangements with the principal objective to ensure that gas is delivered to existing and new customers in a safe, efficient, reliable, fair and environmentally sustainable manner; and
- oversee compliance with, and review such arrangements.

Gas Industry Co is required to have regard to the Government's policy objectives for the gas sector, and to report on the achievement of those objectives and on the state of the New Zealand gas industry.

Gas Industry Co's corporate strategy is to 'optimise the contribution of gas to New Zealand'.

SUBMISSIONS CLOSE:
16 October 2017

SUBMIT TO:
www.gasindustry.co.nz

ENQUIRIES:
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