



**Australian Council for  
Infrastructure Development  
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29 February 2000

Mr Robert Pullella  
Office of Gas Access Regulation  
Level 6, Governor Stirling Tower  
197 St Georges Terrace  
Perth, 6000  
Western Australia

Dear Mr Pullella

**Dampier to Bunbury Natural Gas Pipeline  
Submission from  
The Australian Council for Infrastructure Development Limited**

The Australian Council for Infrastructure Development Limited (AusCID), is an industry association representing the interests of investors, and other participants in infrastructure businesses. Details of current memberships are attached. AusCID's objectives include:

- (a) to facilitate and encourage private sector provision of infrastructure;
- (b) assist in creating an environment that encourages efficient delivery of private sector infrastructure projects;
- (c) promote the benefits of the private sector providing infrastructure in terms of cost, quality, time and efficiency to governments, oppositions, senior bureaucrats and the community;
- (d) become a reference point for governments on the requirements of the private sector for participation in the provision of infrastructure.

AusCID is pleased to provide this response to the Office of Gas Access Regulation, and has set out below areas of concern.

***Sovereign Risk Implications***

AusCID is concerned that regulatory regimes imposed on assets that have been the subject of government sales programmes should be consistent with the terms under which the assets were sold by government.

Any attempt to subsequently amend aspects of the regime in a manner inconsistent with the terms of the sales process amounts to a unilateral repudiation of the terms of the sale to the detriment of the purchaser and ultimately the economy of the jurisdiction. In circumstances where the action is taken by or facilitated by a government which has been the recipient of assets sales proceeds, there are

significant implications for the level of perceived sovereign risk within that jurisdiction and the security of assets from state sponsored confiscation.

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The implications of such action for Western Australia and indeed for Australia, are significant and will be reflected in the margin implicitly demanded by investors for the sovereign risk of investment in these jurisdictions, which will have negative implications for the cost of funding future development of necessary infrastructure assets.

Where tariffs fail to reflect the real level of investment, the market resource allocation mechanism will effectively ration investment capital to the jurisdiction: other jurisdictions will be more attractive propositions and will gain priority.

It is not the role of AusCID to argue the specific case in relation to this proposed Access Arrangement, however AusCID is very interested to ensure that consistent, transparent processes are applied. This is to ensure that there will be no distortion of the pricing signals that may lead to a departure of private sector investment from infrastructure and reverse the productivity gains that have been achieved to date.

Concern has been expressed about the implications for increased tariffs that would flow should Epic's actual price be adopted as the Initial Capital Base for the Dampier pipeline. This must be viewed as a direct consequence of the sales process and the terms and price accepted by the WA Government. A sale is not a stand-alone event in this context. It highlights the importance of viewing the sales process as only one aspect in the delivery of services, but one which will have important implications for the future pricing of those services. The sales process must be structured and assessed as part of the integrated provision of services.

The sale of the Victorian power assets achieved exceptional prices for the Victorian Government at a time of falling bond rates and a constrained domestic environment for US based utility companies. These prices were also supported by the existence of the fixed term vesting contracts within the regulatory regime, which kept retail tariffs high and isolated from deregulated competition. This arrangement was fully disclosed and fully priced into the market.

We also note that any comparisons that have been made between WACC determinations of other Regulators must be made on a fully comparable basis and take into account ruling market rates in order for the comparison to be valid: there has been an increase in official interest rates of at least 0.75% since other determinations were made, and the deregulation of US utilities has increased the attractiveness of that market over Australia, for utilities investors, and consequently increased the required return of these investors to remain or reinvest in Australia.

In summary, AusCID would emphasise that it is in the long term interests of all consumers of infrastructure services that there be certainty and consistency in the regulatory environment in which investors have invested their funds. Any uncertainty in the regulatory or investment regime will be followed by increased costs of funds for projects and consequential increases in costs of service delivery.

Yours sincerely

Dennis O'Neill  
Chief Executive Officer

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**AusCID**

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