

Proposed Revisions DBNGP Access Arrangement

2016 – 2020 Access Arrangement Period

Proposed Terms and Conditions

Supporting Submission: 4



PUBLIC

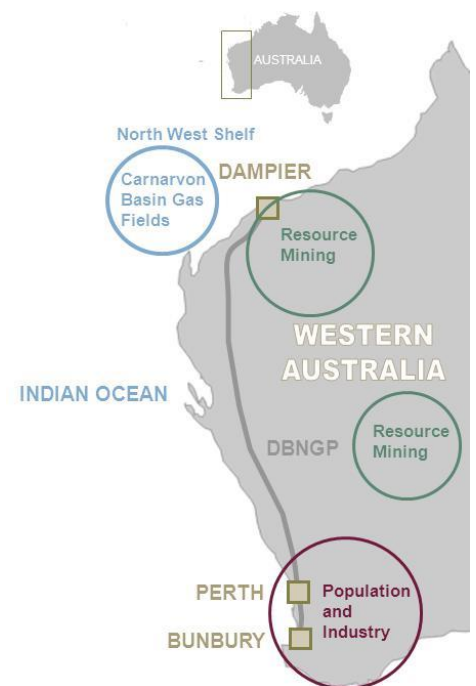
Date Submitted: 31/12/2014

CONFIDENTIALITY

- 1.1 This submission is provided to the ERA to assist it in its assessment of the proposed revisions to the DBNGP Access Arrangement.
- 1.2 Some information contained in the submission is confidential and commercially sensitive. The reasons for DBP's claim of confidentiality are outlined in Appendix D: to this submission.
- 1.3 A public version of this submission will be provided separately.
- 1.4 Accordingly, this version of the submission is provided to the ERA on the following conditions:
 - (a) it is to be used by the ERA solely for the purposes of assessing the proposed revisions to the DBNGP Access Arrangement;
 - (b) it is not to be disclosed to any person other than the following without DBP's prior written approval:
 - (i) those staff of the ERA who are involved in assisting the ERA in its assessment process; and
 - (ii) those of the ERA's consultants who are involved in assisting the ERA in its assessment process and who have appropriate confidentiality undertakings in place.

DBP Transmission (DBP) is the owner and operator of the Dampier to Bunbury Natural Gas Pipeline (DBNGP), Western Australia's most important piece of energy infrastructure.

The DBNGP is WA's key gas transmission pipeline stretching almost 1600 kilometres and linking the gas fields located in the Carnarvon Basin off the Pilbara coast with population centres and industry in the south-west of the State



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1. INTRODUCTION

- 1.1 On 31 December 2014, DBNGP (WA) Transmission Pty Ltd (DBP) filed the following documents with the Economic Regulation Authority (**ERA**):
 - (a) proposed revised Access Arrangement (**Proposed Revised AA**); and
 - (b) proposed revised Access Arrangement Information (**Proposed Revised AAI**).
- 1.2 These documents are proposed to cover the access arrangement period commencing on 1 January 2016 and ending on 31 December 2020 (**AA Period**)
- 1.3 These documents contain the information that the National Gas Access (WA) Act 2009 (**NGA**) (which includes the Western Australian National Gas Access Law text (**NGL**) and the National Gas Rules (**NGR**)) requires to be included in order to enable them to be approved by the ERA.
- 1.4 In addition to the Proposed Revised AA and Proposed Revised AAI, a number of additional supporting submissions were filed to assist the ERA in assessing the Proposed Revised AA. These included the following:
 - (a) Submission 1: Proposal
 - (b) Submission 2: Cost Controls and Governance
 - (c) Submission 3: Proposed Reference Service
 - (d) Submission 4: Terms and Conditions
 - (e) Submission 5: Non-tariff related issues
 - (f) Submission 6: Cost Verification and Allocation
 - (g) Submission 7: Actual Capital Expenditure (Expansion)
 - (h) Submission 8 Actual Capital Expenditure (Stay-in-Business) (Part 1 & 2)
 - (i) Submission 9: Forecast Capital Expenditure
 - (j) Submission 10: Forecast Operating Expenditure
 - (k) Submission 11: Capacity and throughput forecast
 - (l) Submission 12: Rate of Return
 - (m) Submission 13: Total Revenue
 - (n) Submission 14: Tariff model and tariff calculation
- 1.5 In relation to the terms and conditions submission, the legislative framework of the NGR relevantly provides as follows:
 - (a) NGR 48(1)(d) requires a full access arrangement to specify, for each reference service:
 - (i) the reference tariff; and
 - (ii) the other terms and conditions on which the reference service will be provided; and
 - (b) NGR 100 provides that the provisions of an access arrangement must be consistent with the National Gas Objective.
- 1.6 As is outlined in the Proposed Revised AA and Submission 3, DBP has proposed to retain the three reference services in the current access arrangement – T1, B1 and P1 reference services - although the definition of the P1 Service is proposed to be modified so that the outlet point must be at a point upstream of CS9.
- 1.7 DBP has also not proposed any other services as reference services.

- 1.8 In addition to the change to the definition of the P1 reference service, DBP proposes to make a number of drafting changes to the terms and conditions for each reference service in the current access arrangement.
- 1.9 Clear versions of proposed T1, P1 and B1 Service terms and conditions are contained in Submission 1 provided as attachments 2, 3 and 4 to the Access Arrangement.
- 1.10 Marked up versions of proposed T1, P1 and B1 Service terms and conditions showing the changes in mark up mode are contained in the following appendices:
 - (a) T1 Service terms and conditions – Appendix A:
 - (b) P1 Service terms and conditions – Appendix B:
 - (c) B1 Service terms and conditions – Appendix C:
- 1.11 A summary of proposed changes for the terms and conditions that apply to each of the T1 Service, the P1 Service and the B1 Service, together with the rationale for each change, are provided in Section 2 of this submission. Section 3 of the submission contains minor changes or drafting changes to the terms and conditions for each of the T1 Service, the P1 Service and the B1 Service.
- 1.12 Section 4 of this submission contains a table of changes that are proposed only for the terms and conditions applicable to the P1 Service.

2. SUMMARY OF SUBSTANTIVE CHANGES

#	Topic	Clauses affected	Change proposed	Rationale for Change
2.1	Definition of Carbon Cost	Definitions	Insert the words underlined “ Carbon Cost means any costs (<u>for the avoidance of doubt, including penalties if that is how such costs are described in the relevant Law</u>) arising in relation to the management of and complying with any obligations or liabilities that may arise under any Law in relation to greenhouse gas emissions. For the avoidance of doubt, such costs may include the costs reasonably incurred by the Operator <u>or its Related Bodies Corporate</u> of actions taken by it to reduce greenhouse gas emissions or mitigate their effect and the costs incurred in acquiring and disposing of or otherwise trading emissions permits.	<p>The Carbon Farming Initiative Amendment Bill that has been passed by both houses of Parliament appears to set up a system that looks at past emissions of the relevant entity and then sets targets for emissions in the future. Where those targets are exceeded, a penalty is imposed, unless the situation is declared not to be an excess emissions situation or permit trading occurs. See sections 22XE and section 22XF of the proposed amendments to the NGER Act.</p> <p>This mechanism exposes DBP to a risk of additional costs with respect to which it has little or no control for the following reasons:</p> <ul style="list-style-type: none"> • Emissions from the DBNGP increase relative to increases in utilisation of capacity: lower usage of capacity means lower fuel gas costs. Higher usage means higher usage of fuel gas as more compressors are turned on. Therefore as demand grows over time, emissions on the DBNGP will increase, which could trigger the penalty imposition even though DBP is acting in a prudent manner and seeking to optimise fuel consumption. • There is no certainty that permits will be available. • Though DBP will seek to minimise the costs, if a penalty is imposed due to higher fuel consumption by reason of increased demand, the existing tariff will not cover such cost and the Reference Tariff Variation Mechanism will not stretch to allow recovery of such penalties if Carbon Cost is not defined to include them.
2.2	Definition of Major Works	Definition	Amend to include Planned Maintenance in definition of Major Works	DBP submits that this change should be made for the following reasons:

#	Topic	Clauses affected	Change proposed	Rationale for Change
		17.2(d) 18(e) 18(g)	<p>The following consequential changes are also proposed to be made:</p> <ul style="list-style-type: none"> • Clause 17.2(d) – can be deleted as captured in clause 17.2(b); • Clause 18(e) – reference to Planned Maintenance can be deleted • Clause 18(g) – reference to Planned Maintenance can be deleted 	<ul style="list-style-type: none"> • Curtailments are permissible where required to undertake Major Works and Planned Maintenance. Inclusion of Planned Maintenance in the definition streamlines clause 17.2 • Simplify the Access Contract by having a single Notice and planning regime apply for both Major Works and Planned Maintenance; • The notice provisions for Major Works in clause 17.6 would then apply to Planned Maintenance so that Operator's obligation is to try to time Planned Maintenance to coincide with Shipper shut downs (if such works would interfere with Shipper's operations);
2.3	Definition of Part Haul	Definitions	<p>Amendment of Part Haul definition to provide:</p> <p>Part Haul means gas transportation service on the DBNGP where the Outlet Point is upstream of Compressor Station 9 on the DBNGP, regardless of the location of the Outlet Point, but does not include Back Haul.</p>	<p>DBP's submission is that the Part Haul definition in the 2005-2010 Access Contract should be restored. There are a number of reasons for this, as set out in the Access Arrangement submissions, section 3. In summary:</p> <ul style="list-style-type: none"> • there is no evidence that a significant part of the market for gas transportation services has sought, or will seek, an access contract for a Part Haul service (as that service is defined in the current access arrangement) where the outlet point is downstream of CS9 • in fact, there has been no requests for this service since it has been available as a reference service. • All shippers who have used the Mondarra Storage facility and who are likely to also deliver gas to an outlet point downstream of CS9 have been using their existing T1 contracted capacity. • All potential users of the storage facility and who are likely to also deliver gas to an outlet point downstream of CS9 already have a T1 service access contract and therefore it would not be economic for them to enter into a separate P1 service (given the take or pay tariff obligations

#	Topic	Clauses affected	Change proposed	Rationale for Change
				<p>under the T1 Service contract)</p> <p>Moreover, the definition of Part Haul service in the current access arrangement:</p> <ul style="list-style-type: none"> • is confusing; • causes discrimination problems in that potentially deliveries downstream of CS9 could be under a full haul or a part haul contract <p>Accordingly, there is no basis for its inclusion as a reference service.</p>
2.4	Term – Options to extend term	4.3-4.7	<p>Deletion of options to renew.</p> <p>Consequential Change: Delete definition of Original Capacity</p>	<p>Access contracts for a reference service (where spare capacity exists) are for a minimum term of 2 years. DBP submits it would be inconsistent with the National Gas Objective to provide the shipper with an option to extend a two year term contract because of the following reasons:</p> <ul style="list-style-type: none"> • DBP would not be able to deal with access requests made by other prospective shippers until all existing shippers have had the opportunity to exercise their options. This will be problematic in circumstances where there is insufficient pipeline capacity to accommodate the new shipper's request and any extension of the term by existing shippers • In the event that a shipper elects not to exercise its option, DBP and the prospective shipper may have already decided to undertake an expansion of the capacity of the pipeline. Alternatively, the shipper may decide to withdraw its request for access due to the uncertainty about there being spare capacity. Either of these outcomes would be inefficient and send the wrong investment signals. • Furthermore, it is open to shippers with reference service access contracts to apply for a new Access Contract towards the end of their term, in which case, they would be on the same position as all prospective shippers seeking access. It would be inequitable if a party has a

#	Topic	Clauses affected	Change proposed	Rationale for Change
				number of short term options that it enters into when there was spare capacity and a new shipper has little opportunity to access the same transport volume as spare capacity becomes limited. In this case each party should have equal opportunity to access the available capacity.
2.5	Refusal to receive gas	5.3(e)	Delete "subject to determination by Operator as a Reasonable & Prudent Person..."	<p>DBP submits that this change should be made on the following bases:</p> <ul style="list-style-type: none"> As presently drafted in the Access Contract it is not clear what the Operator is required to determine. The proposed change removes this uncertainty; A determination by Operator that Shipper has engaged in misconduct or negligence or breach is implicitly required for the Operator to exercise its rights under this clause. If the Operator exercises its rights to refuse Receipt of Gas under this clause in the absence of such act or omission by the Shipper, the Operator would arguably be in breach of contract. The Operator's main remedy in the event of a shipper's breach or negligence or misconduct is to refuse to Receive Gas. As drafted in the current Access Contract, this clause weakens this right of the Operator by qualifying when it should be able to refuse receipt if there is a breach (including negligence) to enable Operator some power to force Shipper to comply with terms – particularly payment.
2.6	Failure to receive where MAOP is exceeded	5.5	Delete cross reference to clause 5.3(d) (exceeding MAOP) as a basis for claiming that a refusal to deliver is a curtailment in certain circumstances.	<p>Clause 5.5 has the effect that if delivery of gas causes the pipeline to exceed MAOP in a situation that would not have happened if the Operator had acted as a R&PP to avoid, then the failure to receive gas is a curtailment. This is not justifiable because:</p> <ul style="list-style-type: none"> MAOP is set by the pipeline design, the Operator is not able to take steps to allow

#	Topic	Clauses affected	Change proposed	Rationale for Change
				deliveries of gas into the pipeline that would cause it to exceed MAOP, and should be entitled to refuse receipt in that case without risk of penalty.
2.7	Refusal to Deliver gas	5.7(d)	Delete “to the extent that the Operator assesses as a Reasonable and Prudent Person that a reduction in Gas Transmission Capacity is required and decides to refuse to Receive Gas ...”	Refer to comments in paragraph 2.5 above. These comments are repeated but in relation to Deliveries of Gas rather than Receipt of Gas. The suggested changes are proposed to clarify clause 5.7(d) of the Access Contract and bring into line with corresponding clause 5.3(e) of the Access Contract.
2.8	Multi-shipper Agreements	6.3(e)	Amend this clause to provide: The Operator must promptly enter into a Multi-shipper Agreement in respect of an Inlet Point or Outlet Point if is an agreement that contains terms that satisfy all of the following apply to the Multi-shipper Agreement: i) if any one of A, B or C apply	As drafted this clause did not make sense. It set out that Operator must enter into a Multi-Shipper Agreement if ... all of the following apply to a Multi-Shipper Agreement. This seems like drafting error that has been carried through.
2.9	Out of Spec Gas	7.8	Insert the words “flare or burn” after “vent” in clauses 7.8(b)(i) and (ii)	Ensure that the Operator can utilise these options if necessary. This reflects the practical operation of the pipeline. Further, it ensures that the Operator can address out of specification gas issues as quickly as possible, given the consequences for the operator under the contract and also the practical consequences for customers downstream if out of specification gas is delivered to outlet points
2.10	Imbalance Limit	9.5(c)-(d)	Delete clauses 9.5(c) and 9.5(d)	The notice provisions in clause 9.5(c) and 9.5(d) are not workable in practice. DBP submits that the base reference service should not give shippers the right to excess imbalance rights above 8% above contracted capacity. DBP management understands that globally, the standard is 2% above contracted capacity. The changes proposed remove notification provisions and provide that once 8% limit is hit,

#	Topic	Clauses affected	Change proposed	Rationale for Change
				charges for the imbalance automatically apply without the notice provisions (notice to all other shippers etc) applying.
2.11	Obligation to pay Excess Imbalance Charge	9.6(e)	Deleted the words “If the Shipper does not comply.... By the end of the following Gas Day” and “up to the Outer Accumulated Imbalance Limit” and “the Gas Day on which the notice is issued and each subsequent Gas Day”. So that the clause now just reads: <i>“The Shipper must pay an Excess Imbalance Charge at the Excess Imbalance Rate for each GJ of Gas in excess of the Shipper’s Accumulated Imbalance Limit in accordance with clause 20 in respect of each Gas Day that the absolute value of the Shipper’s Accumulated Imbalance exceeds the Shipper’s Accumulated Imbalance Limit until the absolute value of the Shipper’s Accumulated Imbalance is less than, or closer to the Accumulated Imbalance Limit (as the Operator sees fit).”</i>	As per above – simplification of imbalance regime.
2.12	Options for restoring the shippers’ imbalance to zero	9.9	In relation to cashing out imbalances at end of Gas Month, new clauses inserted to provide more options regarding restoring the balance to zero. If imbalance is positive, then storage service or Operator buys the gas at the fair market price. If the imbalance is negative, Shipper pays the Operator for the gas at the fair market price or delivers enough gas to the Operator to restore the balance to zero. “Fair market price” is defined as \$8 per GJ (in 2015 \$).	This allows the parties flexibility to either enter into a storage agreement with DBP for accumulated imbalances or to cash out, depending on what they are paying for gas. [REDACTED]
2.13	Peaking limits	10.1	Drafting Change only – clarify the definition.	Peaking is limited to 125 % in winter and 120 % in summer. There are no changes to the current peaking limits proposed in the new Access Contract. However, DBP proposes that the contract should be changed so that in the event peaking exceeds these amounts, Hourly Peaking Charge is automatically applicable. Notice provisions are cumbersome and do not work

#	Topic	Clauses affected	Change proposed	Rationale for Change
				in practice. Peaking notice clauses to be streamlined so that charges apply automatically once limit reached
2.14	Rights and obligations of parties when peaking limits are exceeded	10.3(a)	<p>Amend to provide that the Operator may (subject to clauses 10.3(e) or 10.3(f), do either or both of:</p> <ul style="list-style-type: none"> • issue a notice requiring the Shipper to reduce its take of Gas, in which case the Shipper must comply immediately or procure immediate compliance and stop exceeding the Hourly Peaking Limit; or • refuse to Deliver gas to the Shipper at any Outlet Point within the relevant pipeline zone until the Shipper's Hourly Peaking limit is within the Hourly Peaking Limit 	<p>The changes remove the requirement that:</p> <ul style="list-style-type: none"> • the Operator can only carry out these steps if the peaking will have a material adverse impact on the DBNGP or adversely impact any other capacity or reserved service; and • notice must only require reduction in take of Gas to the extent reasonably required to ameliorate the condition that there is an impact on other Shippers; and <p>Furthermore, they make the requirement on Shipper to reduce the Gas take absolute, not "best endeavours".</p> <p>DBP submits that this is reasonable – the Shipper still has a large degree of flexibility with the allowed peaking limit. There is no justification for allowing the Shipper such greater peaking rights, and further there is no justification for imposing the onus on the Operator to determine whether the Shipper taking more than 20% to 25% above their contracted capacity in an hour will impact on other shippers.</p>
2.15	Issuing of notices when peaking limits are exceeded	10.3(b) 10.3(c)	Delete	<p>DBP submits that these clauses should be deleted. The requirement to issue notices to all shippers is not workable in practice and is an unreasonable administrative burden on DBP, where the Shipper has already exceeded the hourly take by 20% to 25%. The relevant Shipper is able to access its peaking behaviour through the customer reporting system. So, the shipper is able to manage its behaviour with access to sufficient information. It is also likely that the shipper has access to further information in its downstream operations. It should be irrelevant what other Shippers are doing. [</p>
2.16	Outer Hourly Peaking Limit	10.5	Delete clause 10.5 .	<p>Clause 10.5 in the current Access Contract allowed for the concept of the Outer Hourly Peaking Limit.</p>

#	Topic	Clauses affected	Change proposed	Rationale for Change
				This is a penalty type clause whereby if the peaking exceeds 140%, the Shipper is penalised at a higher rate for the entire time that peaking occurs. DBP proposes that this be deleted and the simpler charging regime referred to above is imposed. This is cheaper for the Shipper and much easier for DBP to administer.
2.17	Overrun	11		Streamlining concept of overrun to remove reference to “authorised” and “unauthorised” overrun. All overrun is unauthorised in the reference service and charges apply.
2.18	Operator’s rights in respect of Overrun Gas	11.2	Delete the words “but only to the extent...obligations to Shippers”	<p>The words that DBP proposes to delete in clause 11.2(a) provide that the Operator can only stop overrun gas if:</p> <ul style="list-style-type: none"> • to the extent that it will impact on another shippers entitlement to its nomination; and • it provides all other shippers with an unavailability notice taking overrun gas in the same zone. <p>DBP submits that overrun gas is gas delivered above the Shippers aggregate contracted capacity. The Operator should be able to cut out overrun gas, as this goes above the contractual entitlements of the shipper under the T1 service. As per above for peaking and imbalances, the notice requirements are administratively onerous and unworkable for DBP. The provision should be streamlined so that it is a meaningful right for DBP to ensure that Shippers do not take more than they are entitled to under their Reference Service contract. Shippers have constant access to CRS information to enable them to monitor and manage their gas flow, and in the event that CRS is not available, the Operator is not entitled to exercise its rights under this clause.</p>
2.19				

#	Topic	Clauses affected	Change proposed	Rationale for Change
		17.4	<p>Insert words: “To the extent that curtailment of the Shipper’s R1 Service exceeds the T1 Permissible Curtailment Limit for any reason other than ... [FM and Operators rights to refuse to receive/deliver gas in cl 5]</p>	<p>Currently, there is no refund to Shipper if the curtailment is due to FM or Operators’ rights to refuse to receive/deliver gas under clause 5. This will not change.</p> <p>Currently a refund would apply if a curtailment is due to Major Works, Maintenance or a safety issue (that does not amount to an event of FM).</p> <p>DBP’s submission is that for the reference service, no refund should apply for curtailments associated with Major Works (including Planned Maintenance) or remedy of a safety issue provided that the relevant curtailment does not exceed the T1 Permissible Curtailment Limit (ie 2% of the time in the relevant Gas Year).</p> <p>DBP submits that:</p> <ul style="list-style-type: none"> • it should be entitled to have a certain amount of “down time” each year to carry out maintenance and major works, up to a limit that is sufficient time for DBP to carry out the works as a Reasonable & Prudent Person, operating the DBNGP in accordance with Good Gas Industry Practice. This is up to the T1 Permissible Curtailment Limit. • This position is supported by the 98% reliability premise of the DBNGP. • If the time taken for such activities exceeds the T1 Permissible Curtailment Limit, then the refund should apply.
2.20	Tax Changes	20.5	<p>Amend clause 20.5 to include words underlined:</p> <p>(a) <u>the T1 Tariff may be varied for:</u></p> <p>(i) <u>CPI changes;</u></p> <p>(ii) <u>Tax Changes;</u></p> <p>(iii) <u>New Costs;</u></p> <p>(iv) <u>Revenue cap adjustments undertaken in accordance with clause 11.5 of the</u></p>	<p>Clause 20.5 refers changes to section 11 of the AA that sets out the Tariff Variation Mechanism and requires that that tariff may only be varied by that mechanism.</p> <p>Currently the Access Contract then restates part but not all of the Tariff Variation Mechanism.</p> <p>DBP proposes to refer to the Tariff Variation Mechanism in the AA in clause 20.5 and remove duplication of this mechanism in the contract. The reasons for doing so include:</p>

#	Topic	Clauses affected	Change proposed	Rationale for Change
			<p><u>Access Arrangement;</u></p> <p>(v) <u>The annual update of the trailing average cost of debt calculation in accordance with clause 11.6 of the Access Arrangement; and</u></p> <p>(vi) <u>any other type of cost variation that the Regulator may approve from time to time</u></p> <p>(vii) <u>arising after the date of this Contract, that meet the relevant criteria in the Reference Tariff Variation Mechanism;</u></p> <p>(b) <u>the T1 Tariff shall be re-set to reflect any new T1 Tariff approved by the Regulator for any new Access Arrangement Periods over the Term of this Contract.</u></p> <p>Delete the words "any adjustment of the T1 Tariff during the term of this Contract will be <u>made</u> in accordance with the Reference Tariff Variation Mechanism."</p>	<ul style="list-style-type: none"> • avoid duplication of part of the AA; • avoid confusion that arises due to only part of the AA being incorporated for variations to the tariff due to Tax Changes; • prevent changes being made in the Access Contract that aren't reflected in the AA, and vice versa; <p>This proposal enables clause 20.7 to be deleted entirely and contains all detailed tax change and new cost variation provisions in one place.</p> <p>Amendments are also proposed to section 11 of the AA to regarding the Tariff Variation Mechanism.</p> <p>Subclauses 20.5(a)(iv) and (v) reflect the new method of setting the tariff proposed by DBP.</p> <p>New sub-clause 20.5(b) has been inserted to ensure that it is clear that if the term of the Contract overlaps a new Access Period, and a new T1 Tariff is set for the reference service, then the new T1 Tariff will apply from the date that the new Access Arrangement period commences.</p> <p>Deletion of the final paragraph is just to avoid duplication - this concept is captured by reference to the requirement that the Reference Tariff Variation Mechanism criteria are met.</p>
		20.7	Consequential Change: Delete clause 20.7	Refer above. DBP proposes that this is no longer required if the change to clause 20.5 is accepted.
		Definitions	Consequential Change: New Costs means costs arising due to a change in Law and additional costs not included in the forecast operating expenditure that arise from a change in the type or level of fees payable to the Land Access Minister under any Access Right relating to the DBNGP and granted under the Dampier to Bunbury Pipeline Act 1998.	Definition is taken from clause 11.4(b) of the AA and it is submitted that it be included for the purposes of the changes proposed to clause 20.5
		Definitions	Insert into definition of Tax Change a further category being: "any Tax which was in force and validly imposed on the Operator or any of its Related Bodies Corporate as at the commencement	This change is suggested to ensure that if a tax is repealed, then the reduction in tax expense is passed through to the Shippers.

#	Topic	Clauses affected	Change proposed	Rationale for Change
			<i>of the Current Access Arrangement Period is repealed;</i>	
		Definitions	Consequential Change: Delete definition of Tax Change Notice	Term no longer used if DBP's proposal is accepted.
2.21	Relinquishment rights	26	Deleted.	DBP submits that in the Access Contract, the general right of relinquishment should be removed. The term of these contracts are potentially as low as 2 years. There is no call for relinquishment rights in this circumstance. Also, shippers have the right to trade their capacity under clause 27 if for some reason they need less than they have contracted for.
2.22	Non-discrimination	45	<p>DBP proposes that this non-discrimination clause should be deleted</p> <p>Consequential change: Delete definition of Relevant Company. Relevant Company is defined as a direct or indirect shareholder of the Operator or a service provider to the Operator and all Related Bodies Corporate of those entities. This term is not used except in clause 45.</p>	<p>Clause 45.1 is not required as:</p> <ul style="list-style-type: none"> information relevant to the shipper regarding maintenance is provided under the other terms of this contract; this information is largely available on the internet or on the IMO bulletin board; CRS largely controls information provided to shipper regarding gas flows and this is in a pre-set real time format that all shippers have access to. <p>Clause 45.2 is not required as:</p> <ul style="list-style-type: none"> there is no longer any ring fencing requirement between the Operator and its owners as WestNet and Alinta are no longer owners or involved in operation of the DBNGP; it is accepted that Alcoa as foundation shipper has a different shipper contract to other shippers, and that non-discrimination provisions do not apply to Alcoa; provisions in the NGL prevent information being provided to a person who is carrying on a related business and prevents entry into associate contracts (ss 140, 147 NGL)

3. SUMMARY OF MINOR/DRAFTING CHANGES

	Topic	Clauses affected	Change proposed	Rationale for Change
3.1	Definition of Access Request form	Definitions	Simplify definition by referring to form set out in Schedule 1.	Simplify definition, clarify form.
3.2	Definition of DBNGP and Kwinana Junction	Definitions	Change 2011-2015 to 2016-2020, and refer to link to ERA website section that sets out the current pipeline description, which link is set out in Schedule 4.	Updates to applicable access arrangement. Reference to Schedule 4 link ensures accurate and current description updates automatically
3.3	Definition of Original Capacity	Definitions	Delete	Not used. Relates to options to extend term, which have been removed from this reference service.
3.4	Definition of Outlet Station	Definitions	Insert underlined: "...and includes <u>gate stations as well as any facilities...</u> "	Include gate stations in definition of outlet station to ensure that costs of maintaining gate stations are included
3.5	Compliance with ring fencing	2.5(e)	Updated references to the current version of the NGL	Update to current legislation reference
3.6	Description of T1 Capacity Service	3.2	Amended to mirror SSC T1 contract provisions.	The proposed changes simplify the description, eliminate unnecessary words and bring the description of the T1 Service into line with the Operator's SSC, to prevent confusion about the nature of the service.
3.7	Term	4.2(b)	Insert the words "specified in the Access Request Form"	Amendment just to clarify and make sense – mirrors words above for Capacity Start Date.
3.8	Operator may refuse to receive gas	5.3(g)	Change to delete the words: "to the extent that the Receipt of that Gas for a Gas Day at an Inlet Point is in excess of the aggregate of all of the Shipper's Contracted Capacity in respect of that Inlet Point for that Gas Day," And leave the clause to read: " <i>if the Operator considers as a Reasonable and Prudent Person that to Receive such Gas would exceed the Shipper's Total Contracted Capacity and would</i>	Clarification and simplification of clause

	Topic	Clauses affected	Change proposed	Rationale for Change
			<i>interfere with other shippers' rights to their Contracted Firm Capacity at the relevant Inlet Point.</i>	
		5.4(c)	Insert the word "reasonably"	Purpose of change is to make the requirement to provide notice of the reasons for refusal to receive gas is provided "as soon as <u>reasonably</u> practicable"
3.9	No liability for refusal to receive gas	5.6	Drafting change only – no change in effect.	Clarify the clause. Previously this clause Could be read 2 ways and was ambiguous. Potential for it to be read to mean "when a refusal to receive gas is deemed a curtailment, the operator is not liable for any direct damage..."
3.10	Multi-shipper agreement	6.3(a), (b), 6.4,	Minor drafting change:	"Multishipper" to "Multi-shipper" throughout – in line with definition in 6.3(d)
3.11	Allocation of Gas at Outlet Points	6.5(b), (c)	Minor drafting change:	Minor drafting changes to ensure consistent terminology (Receives Gas, rather than take Delivery of), to avoid confusion and to note that it relevant deliveries are for a Gas Day at any particular Outlet Point.
3.12	Construction Cost and Maintenance Charge	6.12	Delete the reference to Gate Stations.	Consequential amendment due to proposed inclusion of Gate Stations in definition of Outlet Station.
3.13	Certain Installations taken to comply; Change of Law	6.16, 7.10	Minor drafting change	Plain English drafting and clarification purposes
3.14	Aggregated T1 Service	8.16	Moved to 8.17	Clause 8.16 and 8.17 swapped around to create a more logical sequence – one follows the other and they were the wrong way around.
3.15	Accumulated Imbalance Limit	9.5(a)	Deleted the words "sum of the Shippers...referred to as" and "(including T1...Transaction)"	The remaining words "Shippers Contracted Capacity across all Shipper's Capacity Services" has this meaning, in fewer words.
		9.5(b)	inserted the word "may" before "refuse to Receive Gas"	Correct grammatical error – previously this read "the Operator (acting as a R&PP) refuse to Receive Gas..." –

	Topic	Clauses affected	Change proposed	Rationale for Change
3.16	Curtailment	17.5	Delete reference to clause 5.9	Consequential change due to deletion of clause 5.9 (see above)
3.17	Curtailment	17.9(ii)	Delete reference to Tx Service	Tx Service no longer exists.
3.18	Curtailment of spot capacity	17.9(c)(iii)	Delete	This clause provides that Capacity under Spot Transactions that resulted from Daily Bids must be curtailed with the lower priced daily spot bid price being curtailed before the higher priced Daily Spot Bid Price. These definitions and clause 3.5 that related to Spot transactions were removed from the 2010 AA and this clause is no longer relevant – ie how spot capacity is curtailed is irrelevant to the shippers under this contract.
3.19	When Shipper can exercise remedy	22.7(b), (c)	Drafting changes only – no substantive change	
3.20	Charges	25.2(a)	Drafting changes only – no substantive change – correct typo	“charge” should be “charger”
3.21	Pipeline Trustees Acknowledgements and Undertakings	25.5(b)	Drafting changes only – no substantive change	
3.22	Pipeline Trustee Assignment	Old 25.5(f) 25.5(f)	Delete – (assignment by PT requires deed of assumption and assignment) Drafting changes – “disposee” to “disponee”	Old 25.5(f) is already covered by existing 25.4
3.23	Confidentiality	definitions 28.3(a) 28.3(b)(iii),(iv) and (v)	Drafting changes only – no substantive change Remove references to WestNet as no longer an owner or Operator of the DBNGP Remove WestNet definition	
3.24	Notices – electronic communications	29.3	Amend to include provision for giving notice via email	In line with Electronic Communications Act, and reinforces 29.4(d)

4. SUMMARY OF ADDITIONAL CHANGES TO P1 SERVICE

	Topic	Clauses affected	Change proposed	Rationale for Change
4.1	GST	20.6	Insert GST clause - as per T1 contract	Inadvertently omitted from current P1 Access Contract.
4.2	Remedy of default	22.3, 22.7	Align days to remedy defaults with T1 contract	Inadvertently omitted from current P1 Access Contract.



APPENDIX A: PROPOSED T1 SERVICE TERMS & CONDITIONS (MARKED UP VERSION)



APPENDIX B: PROPOSED P1 SERVICE TERMS & CONDITIONS (MARKED UP VERSION)

APPENDIX C: PROPOSED B1 SERVICE TERMS & CONDITIONS (MARKED UP VERSION)



APPENDIX D: CONFIDENTIALITY CLAIMS TABLE