



Economic Regulation Authority

Draft decision on revisions to the access arrangement for the Goldfields Gas Pipeline

Attachment 8: Other access arrangement provisions

25 July 2024

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Note

This attachment forms part of the ERA's draft decision on proposed revisions to the access arrangement for the Goldfields Gas Pipeline. It should be read in conjunction with all other parts of the draft decision, which is comprised of the following document and attachments:

Draft decision on revisions to the access arrangement for the Goldfields Gas Pipeline – Overview, 25 July 2024

- Attachment 1: Access arrangement and services
- Attachment 2: Demand
- Attachment 3: Revenue and tariffs
- Attachment 4: Regulatory capital base
- Attachment 5: Operating expenditure
- Attachment 6: Depreciation
- Attachment 7: Return on capital, taxation, incentives
- Attachment 8: Other access arrangement provisions (this document)
- Attachment 9: Service terms and conditions

Attachment 8. Summary

GGT must include requirements for queuing, extensions and expansions, and capacity trading in the access arrangement for the Goldfields Gas Pipeline. Principles for changing receipt and delivery points must also be included.

GGT did not propose any amendments to the extension and expansion requirements, capacity trading requirements or principles for changing receipt/delivery points – these access arrangement provisions remain unchanged from the current (AA4) provisions.

GGT proposed extensive drafting changes to the queuing requirements to simplify the requirements and ensure they are commercially workable.

Overall, the ERA considers that GGT's amended queuing requirements do improve the readability and understanding of the requirements for access to services and the requirements for queuing when access to services cannot be provided. The amended queuing requirements also better align with the queuing requirements set out in the National Gas Rules (NGR).

However, the ERA has identified further amendments that must be addressed. These amendments aim to further clarify certain provisions and/or address drafting errors. Subject to GGT addressing the ERA's required amendments, the ERA conditionally approves the access and queuing requirements in Section 5 of the proposed access arrangement.

Summary of required amendments

- 8.1 GGT must amend Section 5.2 of the access and queuing requirements to add a new provision to confirm that if the existing user responds to the service provider's request for continuation of service information to confirm that it does not intend to extend its gas transportation agreement, the service provider may treat the user's capacity as spare capacity at the expiry of the user's agreement.
- 8.2 GGT must amend Section 5.5.1(b) of the access and queuing requirements so that the requirement to meet any prudential requirements is limited to those that are reasonably necessary to lodge a registration of interest. To assist with clarity, GGT should provide examples of the types of prudential requirements that may be specified.
- 8.3 GGT must include a provision in Section 5.5 of the access and queuing requirements to confirm what happens to a registration of interest after 12 months from receipt of the registration of interest by the service provider.
- 8.4 GGT must amend Section 5.6 of the access and queuing requirements to change the heading from "Service Provider can provide service with Spare Capacity" to "Spare Capacity", which better reflects the provisions of this section.
- 8.5 GGT must correct the drafting error in Section 5.7(a) of the access and queuing requirements so that the drafting reads "... 30 Business Days after the date specified in the Spare Capacity Notice (access request date)".
- 8.6 GGT must amend the access and queuing requirements to confirm the information required when notifying prospective users (under Section 5.8.3(d)) as to whether they were allocated any spare capacity in an auction, and the regulator (under Section 5.8.3(e) of the outcomes of a Spare Capacity Notice and Auction for Spare Capacity. As a minimum, the information required must be such as to enable a prospective user to determine the prospective user's position in the queue, the order of which was determined by prioritising the auction bids based on the criteria set out in Section 5.8.3(b).

- 8.7 GGT must correct the drafting error in Section 5.8.1(d)(iii) of the access and queuing requirements to remove the words “For example, terms that ... compared to standard Terms & Conditions” (these words should form part of the new drafting in Section 5.8.1e)). GGT must also correct the drafting error in Section 5.8.3(e) to refer to the “Spare Capacity Notice” (not “Notice of Spare Capacity”).
- 8.8 GGT must correct the drafting error in Section 5.9(b) of the access and queuing requirements to change the reference to “Capacity Queue” to “Capacity Deposit”.
- 8.9 GGT must delete proposed Section 5.10 of the access and queuing requirements, unless GGT can confirm that this section is only relevant in relation to an access request made under Section 5.1 and access offer made under Section 5.3.2.

Regulatory requirements

1. Rules 103 to 106 of the NGR set out specific provisions concerning other required content of an access arrangement:¹
 - Queuing requirements (rule 103)
 - Queuing requirements, which are required for a transmission pipeline, must establish a process or mechanism (or both) for establishing an order of priority between prospective users of spare or developable capacity (or both) in which all prospective users are treated on a fair and equal basis.
 - Queuing requirement must also be sufficiently detailed to enable prospective users to understand the basis on which an order of priority has been or will be determined; and where an order of priority has been determined, to determine their position in the queue.
 - Extension and expansion requirements (rule 104)
 - The access arrangement must set out the extension and expansion requirements that will apply and must meet the following criteria:
 - The requirements may state whether the access arrangement will apply to incremental services to be provided as a result of a particular extension to the pipeline made during the access arrangement period or may allow for a later resolution of that question on a basis stated in the requirements.
 - If the service provider agrees, the requirements may state that the access arrangement will apply to incremental services to be provided as a result of a particular extension to the pipeline made before the revision commencement date for the access arrangement.
 - The requirements must state that the access arrangement will apply to incremental services to be provided as a result of any expansion to the capacity of the pipeline during the access arrangement period and deal with the effect of the expansion on tariffs.
 - The requirements cannot require the service provider to provide funds for work involved in making an extension or expansion unless the service provider agrees.
 - Capacity trading requirements (rule 105)
 - The access arrangement must set out the capacity trading requirements that will apply. Where the service provider is a registered participant in a gas market, the transfer of contracted capacity must be in accordance with the rules and procedures governing that gas market. If not a registered participant, or the market rules/procedures do not cover capacity trading, the capacity trading requirements must meet the criteria set out in the NGR.
 - Under the NGR, capacity trading requirements must allow a user to transfer all or any of the user's contracted capacity to a third party, with or without the user seeking the service provider's consent for the transfer. Where consent to transfer capacity is sought, the service provider must not withhold its consent unless it has reasonable grounds, based on technical or commercial considerations, for doing so.

¹ Extracts of the NGR that are referenced in this document are provided in Appendix 2 for information.

- Principles for changing receipt or delivery points (rule 106)
 - The access arrangement must set out the terms and conditions for changing receipt and delivery points in accordance with the following principles:
 - A user may change its receipt or delivery point with the service provider's consent, and the service provider must not withhold its consent unless it has reasonable technical or commercial grounds to do so.
 - Conditions under which consent will or will not be given, and the conditions to be complied with if consent is given, may be specified in advanced in the access arrangement.
2. Further to the above requirements, an access arrangement may include fixed principles for a stated period that can extend over two or more access arrangement periods.² Once fixed, the principle is binding on the regulator and service provider for the stated period, however:
- The regulator may vary or revoke a fixed principle at any time with the service provider's consent.
 - If a rule is found to be inconsistent with a fixed principle, the rule operates to the exclusion of the fixed principle.

² NGR, rule 99.

GGT proposal

3. The required other access arrangement provisions are set out in the following sections of GGT's proposed access arrangement. GGT has not included any optional provisions (fixed principles) in the access arrangement.
 - Queuing requirements – Section 5.
 - Capacity trading requirements and principles for changing receipt or delivery points – Section 6.
 - Extension and expansion requirements – Section 7.
4. GGT has revised and amended the queuing requirements “to simplify the provisions and ensure that [the provisions] are commercially fit for purpose.”³ No amendments have been made to the extension and expansion requirements, capacity trading requirements or principles for changing receipt/delivery points – these access arrangement provisions remain unchanged from the current (AA4) provisions.
5. GGT's proposed amendments to the queuing requirements are detailed in a marked-up version of the proposed access arrangement and are summarised in Table 8.1.⁴ As part of the proposed amendments, GGT will introduce new prudential requirements during the offer and acceptance stages of the queuing process.

Table 8.1: GGT proposed amendments to queuing requirements

Proposed amendment	Summary / Description
Overarching statement and information from existing users	<p>New overarching statement to the access and queuing provisions to encourage prospective users to discuss their service requirements with GGT prior to lodging a formal access request.</p> <p>New provision to allow GGT to seek information ('continuation of service information request') from an existing user within 24 months of the expiry date of an existing Transport Service Agreement.</p>
Registration of interest	<p>Amendments to clarify the circumstances where a registration of interest may be used and the required form for a registration of interest:</p> <ul style="list-style-type: none"> • GGT may invite a prospective user to lodge a registration of interest for services where GGT is unable to provide access to an initial request for service. • A registration of interest: <ul style="list-style-type: none"> – Must be made in the form set out in Schedule B of the access arrangement. – Will no longer require distinction between a service to be provided by spare capacity or developable capacity. – Will remain valid for 12 months from receipt by GGT.
Procedure when spare capacity becomes available	<p>Amendments to simplify the process when spare capacity becomes available. In summary, the amended process will consist of a 'Spare Capacity Notice' to notify all prospective users in the queue and invite expressions of interest for the spare capacity. The responses to the expression of interest will largely determine what subsequent process is taken by GGT.</p>

³ GGT, *Goldfields Gas Pipeline AA5 - Proposal Overview*, 1 January 2024, p. 125.

⁴ GGT, *Goldfields Gas Pipeline AA5 - Proposed Revised Access Arrangement (marked-up version)*, 1 January 2024, Section 5, pp. 31-45 ([online](#)) (accessed July 2024).

Proposed amendment	Summary / Description
	<p>The amended provisions will provide for the following:</p> <ul style="list-style-type: none"> • GGT considering various platforms to publish the Spare Capacity Notice (such as GGT’s website, newspapers and social media platforms) to enhance information sharing. • Where the available spare capacity can meet all expressions of interest, GGT making reasonable access offers. • Where the available spare capacity cannot meet all expressions of interest, GGT notifying all prospective users that lodged an expression of interest that it is accepting bids for the spare capacity via a ‘Notice of Auction for Spare Capacity’. <ul style="list-style-type: none"> – Prior to lodging a bid in the auction for spare capacity, GGT providing the prospective user an opportunity to engage with GGT to discuss possible terms and conditions. – GGT being able to reject a bid in the auction for spare capacity for terms that are not acceptable to it (for example, terms that will limit the ability of GGT to satisfy service obligations to other shippers; or do not reflect the actual capacity usage profile expected to be used by the customer; or that would change the allocation of risk compared to standard terms and conditions).
Service provider reporting to regulator	New requirement for GGT to inform the regulator (ERA), in writing, about the outcomes of a Notice of Spare Capacity and, if relevant, a Notice of Auction for Spare Capacity.
Prudential requirements	<p>New provisions to tighten prudential requirements for prospective users who accept an access offer from GGT; and reduce potential gaming and nuisance requests that are intended to block other prospective users from gaining access to services or to create uncertainty about timing for access to services.</p> <p>The proposed provisions provide for:</p> <ul style="list-style-type: none"> • The payment of a ‘Capacity Deposit’ when the prospective user accepts an access offer from GGT, and the subsequent refund of this deposit when the prospective user enters into a transportation agreement with GGT. • The ability for GGT to withdraw an access offer in circumstances where the Capacity Deposit is not paid within the required timeframe.
Prospective user acceptance of access proposal	New provision to require GGT and prospective user to negotiate in good faith to reach agreement on the terms and conditions of the transportation agreement once the prospective user accepts an access offer.
Developable capacity	Amendments to the developable capacity obligations to remove duplication in the access arrangement. The current provision setting out requirements to undertake expansions to be amended to refer to the provisions specified in Section 7 of the access arrangement, which specifically covers extensions and expansions.

Source: GGT, Goldfields Gas Pipeline AA5 - Proposal Overview, 1 January 2024, pp. 129-132.

Submissions

6. The ERA received no submissions from interested parties that addressed GGT's proposal to amend the queuing requirements in the access arrangement, and to keep other required access arrangement provisions unchanged.

Draft decision

Queuing requirements

7. GGT has made extensive drafting changes to the queuing requirements in the access arrangement “to simplify the provisions and ensure [the provisions] are commercially fit for purpose.”⁵ The drafting changes include amendments to existing provisions and the introduction of some new provisions, such as for example, prudential requirements.
8. The ERA’s detailed considerations of GGT’s proposed changes to the queuing requirements for AA5 are set out in Table 8.2 (on page 8).⁶ Overall, the ERA considers that GGT’s proposed changes improve the readability and understanding of the requirements for access to services and the requirements for queuing when access to services cannot be provided. The drafting changes also better align GGT’s access arrangement provisions for access and queuing with the queuing requirements set out in the NGR. The ERA further notes that there were no submissions raising any concerns with GGT’s proposed changes to the queuing requirements.
9. Subject to the ERA’s detailed considerations and related required amendments being addressed by GGT, the ERA conditionally approves the access and queuing requirements in Section 5 of the proposed access arrangement. GGT’s access and queuing requirements are consistent with the queuing requirements set out in the NGR. That is, GGT has established a process/mechanism for establishing an order of priority between prospective users of spare/developable capacity where prospective users are treated on a fair and equal basis, with the order of priority being determined on the basis of an auction.

Required Amendment

- 8.1 GGT must amend Section 5.2 of the access and queuing requirements to add a new provision to confirm that if the existing user responds to the service provider’s request for continuation of service information to confirm that it does not intend to extend its gas transportation agreement, the service provider may treat the user’s capacity as spare capacity at the expiry of the user’s agreement.
- 8.2 GGT must amend Section 5.5.1(b) of the access and queuing requirements so that the requirement to meet any prudential requirements is limited to those that are reasonably necessary to lodge a registration of interest. To assist with clarity, GGT should provide examples of the types of prudential requirements that may be specified.
- 8.3 GGT must include a provision in Section 5.5 of the access and queuing requirements to confirm what happens to a registration of interest after 12 months from receipt of the registration of interest by the service provider.
- 8.4 GGT must amend Section 5.6 of the access and queuing requirements to change the heading from “Service Provider can provide service with Spare Capacity” to “Spare Capacity”, which better reflects the provisions of this section.

⁵ GGT, *Goldfields Gas Pipeline AA5 - Proposal Overview*, 1 January 2024, p. 125.

⁶ GGT’s proposed drafting changes are set out in a marked-up copy of the proposed access arrangement, which is available on the [ERA website](#) (accessed July 2024).

- 8.5 GGT must correct the drafting error in Section 5.7(a) of the access and queuing requirements so that the drafting reads "... 30 Business Days after the date specified in the Spare Capacity Notice (access request date)".
- 8.6 GGT must amend the access and queuing requirements to confirm the information required when notifying prospective users (under Section 5.8.3(d)) as to whether they were allocated any spare capacity in an auction, and the regulator (under Section 5.8.3(e)) of the outcomes of a Spare Capacity Notice and Auction for Spare Capacity. As a minimum, the information required must be such as to enable a prospective user to determine the prospective user's position in the queue, the order of which was determined by prioritising the auction bids based on the criteria set out in Section 5.8.3(b).
- 8.7 GGT must correct the drafting error in Section 5.8.1(d)(iii) of the access and queuing requirements to remove the words "For example, terms that ... compared to standard Terms & Conditions" (these words should form part of the new drafting in Section 5.8.1(e)). GGT must also correct the drafting error in Section 5.8.3(e) to refer to the "Spare Capacity Notice" (not "Notice of Spare Capacity").
- 8.8 GGT must correct the drafting error in Section 5.9(b) of the access and queuing requirements to change the reference to "Capacity Queue" to "Capacity Deposit".
- 8.9 GGT must delete proposed Section 5.10 of the access and queuing requirements, unless GGT can confirm that this section is only relevant in relation to an access request made under Section 5.1 and access offer made under Section 5.3.2.

Other requirements

10. GGT's extension and expansion requirements, capacity trading requirements and principles for changing receipt or delivery points remain unchanged from the current (AA4) requirements. The ERA considers that there are no reasons to amend these access arrangement provisions for AA5 given, that the provisions continue to meet the requirements of the NGR and there were no submissions raising any concerns with the provisions. On this basis, the ERA approves GGT's extension and expansion requirements, capacity trading requirements and principles for changing receipt or delivery points as set out in the proposed access arrangement.

Table 8.2: GGT proposed changes to queuing requirements in Section 5 of the proposed access arrangement for AA5 and ERA considerations

GGT proposal	ERA consideration(s)
<p>Section 5 [heading and statement] Amend section heading to “Access and Queuing” (from “Queuing”) and insert a new overarching statement to encourage prospective users to discuss their service requirements prior to lodging a formal service request.</p>	<p>Amendment of heading to “Access and Queuing” better reflects the provisions in this section of the access arrangement, which covers access to services and queuing requirements.</p> <p>New overarching statement to encourage discussions between prospective users and GGT before formal service requests are lodged is reasonable and offers benefits to both users and GGT, such as for example, opportunities to discuss specific operational needs and to clarify aspects of the service request.</p>
<p>Section 5.1 [access request] Drafting amendments to simplify the requirements for submitting an access request by removing references to a service provided by spare capacity or developable capacity and clarify the information needed for and the form of the access request.</p>	<p>Amendments clarify what information is required from a prospective user who is seeking access to a service, and what form the access request must use (i.e. a “Schedule B” form).</p> <p>As stated by GGT, the removal of references to (and options for) a service to be provided by spare capacity or developable capacity simplify the access request for prospective users and allow GGT the discretion to develop solutions that meet the operational needs of their customers. GGT, as the operator of and service provider for the pipeline, is best placed assess whether services can/should be provided by spare capacity or developable capacity (i.e. prospective users should not need to nominate the type of capacity to meet their service request).</p>
<p>Section 5.2 [information from existing users] New drafting to allow GGT to request information from existing users about extending their Gas Transportation Agreement (“continuation of service information request”).</p>	<p>New provisions that allow GGT to request information from existing users with a Gas Transportation Agreement. The proposed provisions:</p> <ul style="list-style-type: none"> • Allow GGT to request information, within 24 months of the expiry date of the Agreement, on whether the user will be extending the period of the Agreement (“continuation of service information request”). • Give the user 20 business days to respond to the continuation of service information request. • Allow GGT to not treat the user’s capacity as spare capacity when the user confirms its intention to extend the Agreement in its response to the continuation of service information request. • Allow GGT to treat the user’s capacity as spare capacity if the user does not respond to the continuation of service information request within the 20 business days provided. <p>As stated by GGT, the introduction of a continuation of service information request will inform GGT of potential spare capacity and allow GGT to better plan and implement procedures for notification of this spare capacity. The introduction of such provisions does not affect the user’s existing rights under its existing gas transportation agreement.</p> <p>Section 5.2(d) confirms that GGT may treat the user’s capacity as spare capacity at the expiry of the user’s gas transportation agreement if the user does not respond to GGT’s continuation of service information request as</p>

GGT proposal	ERA consideration(s)
	required. The ERA assumes that where a user responds to GGT's continuation of service information request to confirm that it does not intend to extend its agreement, then GGT can treat the user's capacity as spare capacity at the expiry of the user's agreement. The ERA considers that this should be made clear in the drafting of Section 5.2 with a new provision. [See Required Amendment 8.1]
<p>Section 5.3 [service provider obligations]</p> <p>Drafting amendments to clarify GGT's obligations after receiving an access request from a prospective user.</p>	Amendments make clearer what GGT's obligations are once it receives an access request from a prospective user.
<p>Section 5.4 [user response]</p> <p>Drafting amendments to clarify a prospective user's obligations after receiving an access proposal.</p>	<p>Amendments make clearer what the prospective user's obligations are once it receives an access proposal (offer) from GGT.</p> <p>The amendment to provide that GGT may request a capacity deposit is consistent with new drafting covering capacity deposits for accepted access proposals (see Section 5.9 considerations below).</p>
<p>Section 5.5 [registration of interest]</p> <p>Drafting amendments to simplify the registration of interest process by removing the need for the prospective user to nominate an interest for a service provided by spare capacity or developable capacity.</p> <p>The drafting amendments also clarify that:</p> <ul style="list-style-type: none"> • Where a service cannot be provided, GGT may invite a prospective user to lodge a registration of interest. • A registration of interest must be signed by the CEO (or CEO delegate) of the prospective user 	<p>Like the amendments made to Section 5.1, the removal of the need to register for a service to be provided by spare capacity or developable capacity simplifies the registration process and allows GGT the discretion to develop solutions that meet the operational needs of their customers. GGT, as the operator of and service provider for the pipeline, is best placed to assess whether services can/should be provided by spare capacity or developable capacity.</p> <p>The amendments further clarify that:</p> <ul style="list-style-type: none"> • GGT may invite prospective users to lodge a registration of interest in response to an access request that cannot be executed, in addition to a prospective user lodging a registration of interest on their own accord. • A registration of interest must be made using the prescribed "Schedule B" form and be signed by the CEO and meet any prudential requirements if they have been specified by GGT. <p>GGT stated that it wanted to tighten prudential requirements for prospective users who accept an access proposal to prevent nuisance requests, with the prudential requirements being the payment of a capacity deposit.⁷ However, in this context the prudential requirements are for prospective users lodging a registration of interest for access to services. The ERA considers that GGT should only be allowed to specify any prudential requirements that are reasonably necessary to lodge a registration of interest, and to provide clarity GGT should provide examples of the types of prudential requirements that may be specified. [See Required Amendment 8.2]</p>

⁷ GGT, *Goldfields Gas Pipeline AA5 - Proposal Overview*, 1 January 2024, pp. 131-132.

GGT proposal	ERA consideration(s)
<p>and meet any prudential requirements.</p>	<p>Section 5.5.1(c) confirms that a registration of interest is valid for 12 months from its receipt by GGT. There are no provisions dealing with the registration of interest after 12 months. The ERA considers that the access and queuing requirements should confirm what happens to a registration of interest beyond 12 months. [See Required Amendment 8.3]</p>
<p>Section 5.6 [spare capacity] Drafting amendments to simplify the process of notification when spare capacity becomes, or is likely to become, available. The amendments:</p> <ul style="list-style-type: none"> • Require GGT to notify all prospective users with a registration of interest of the spare capacity, including the amount and timing availability (“Spare Capacity Notice”). • Confirm the information that can be included in the Spare Capacity Notice and means by which the notice can be communicated. 	<p>Amendments simplify the process when spare capacity becomes (or is likely to become) available by making clear the process to be followed, which requires GGT to notify all prospective users with a registration of interest of the spare capacity, including the amount and timing of availability; and invite expressions of interest for the spare capacity (“Spare Capacity Notice”).</p> <p>The Spare Capacity Notice:</p> <ul style="list-style-type: none"> • May provide information about the aggregated capacity on the register and set out circumstances in which an auction for the spare capacity may be held. • May include criteria to enable GGT to establish an order of priority for the spare capacity. • Must advise of the date that expressions of interest are to be received by GGT. • May be published on GGT’s website, any newspaper and/or social media. <p>Given the provisions in this section, the ERA considers that the heading should be changed from “Service Provider can provide service with Spare Capacity” to “Spare Capacity”. The current proposed heading is confusing given that this section only covers provisions for the Spare Capacity Notice. It is the provisions in Section 5.7 that cover the service provider being able to provide to a prospective user a service with spare capacity following the receipt of an expression of interest for that spare capacity. The amended heading of “Spare Capacity” would also be more consistent with the heading used in Section 5.11 for “Developable Capacity”. [See Required Amendment 8.4]</p>
<p>Section 5.7 [EOI with spare capacity] Drafting amendments to simplify the process when expressions of interest in response to a Spare Capacity Notice can be met with spare capacity.</p>	<p>Amendments simplify the process when expressions of interest in response to the Spare Capacity Notice can be met with the spare capacity by making reference to the procedures set out in Sections 5.3 and 5.4 (that is, the same procedures for dealing with an access request and access proposal will be used).</p> <p>The amendments further confirm that:</p> <ul style="list-style-type: none"> • GGT will treat each expression of interest as an access request, with the access request date being 30 business days after the date specified in the Spare Capacity Notice. • GGT will negotiate with all prospective users with a complying expression of interest but may do so in any order provided that it uses reasonable endeavours to ensure that no expression of interest is disadvantaged.

GGT proposal	ERA consideration(s)
	<p>The ERA notes that there is a typographical error in GGT’s proposed amendments in Section 5.7(a). The word “Notice” should remain and not be deleted so that the drafting makes reference to the Spare Capacity Notice. [See Required Amendment 8.5]</p>
<p>Section 5.8 [EOI no spare capacity] Drafting amendments to clarify the process when expressions of interest in response to a Spare Capacity Notice cannot be met with spare capacity. The amendments:</p> <ul style="list-style-type: none"> • Retain the requirement for GGT to notify all prospective users that lodged an expression of interest that it is accepting bids for spare capacity (“Notice of Auction for Spare Capacity”). • Confirm what information is needed to constitute a complying bid and that GGT may reject a bid under certain circumstances. • Introduce a requirement for GGT to inform the ERA about the outcomes of the Spare Capacity Notice and Notice of Auction for Spare Capacity. • Allow GGT to set a floor price and a reserve price for the auction, with the floor price being the reference service tariff. 	<p>Amendments clarify the process when expressions of interest in response to the Spare Capacity Notice cannot be met with the spare capacity. The process involves:</p> <ul style="list-style-type: none"> • GGT notifying all prospective users that lodged an expression of interest that it is accepting bids for spare capacity (“Notice of Auction for Spare Capacity”). • Where the capacity of complying bids does not exceed the spare capacity, GGT notifying prospective users who submitted a complying bid that it accepts provision of the service (including the requested terms and conditions) as requested by the prospective users’ bids. • Where the capacity of complying bids exceeds the spare capacity, GGT assessing the complying bids to establish an order of priority to allocate the spare capacity among the auction participants. <p>The amendments confirm:</p> <ul style="list-style-type: none"> • What the Notice of Auction for Spare Capacity must contain and what constitutes a complying bid. GGT has introduced a new provision that allows it to reject a bid based on terms that are not acceptable to it (new section 5.8.1(e)). • Under a new provision, GGT may engage with prospective users who make a bid to discuss the terms and conditions that were requested in the bid (new section 5.8.2(b)). • A prospective user that is allocated spare capacity in an auction for spare capacity may be required to provide GGT with a capacity deposit. • Under a new provision, GGT will inform the ERA in writing about the outcomes of the Spare Capacity Notice and, if held, the Auction for Spare Capacity (new section 5.8.3(e)). • GGT may set a floor and reserve price for the auction, with the floor price being the reference service tariff. The reserve price will not exceed the reference service tariff if the service is the Firm Transportation Service. For other pipeline services, GGT will set a reserve price. <p>The ERA notes GGT’s new provision to require it to notify the ERA of the outcomes of the Spare Capacity Notice, and if held, the Auction for Spare Capacity (new Section 5.8.3(e)). An existing provision requires GGT notify each prospective user that participated in the auction of whether it has been allocated spare capacity (Section 5.8.3(d)). The ERA considers that there should be further provisions that set out what details GGT must include in the notifications to the ERA and prospective users. As a minimum the details would need to be such to enable the ERA and a prospective user to determine the prospective user’s position in the queue, the order of which was determined by prioritising the auction bids based on the criteria set out in Section 5.8.3(b). Being able to</p>

GGT proposal	ERA consideration(s)
	<p>determine the prospective user's position in the queue, where an order of priority has been determined, is a requirement of rule 103(5)(b) of the NGR. [See Required Amendment 8.6]</p> <p>As noted by the ERA in its March 2024 Issues Paper, there is a drafting error in Section 5.8.1(d)(iii) that GGT needs to correct.⁸ The ERA notes a further drafting error in new Section 5.8.3(e) – the reference to the “Notice of Spare Capacity” should be a reference to “Spare Capacity Notice” as per the defined term that is used in Section 5.6(a). [See Required Amendment 8.7]</p>
<p>Section 5.9 [capacity deposit] New drafting to allow GGT to request a “Capacity Deposit” when a prospective user accepts an access proposal.</p>	<p>New drafting allows GGT to request a capacity deposit from a prospective user when the user accepts an access proposal. The capacity deposit:</p> <ul style="list-style-type: none"> • Will be either 2.5 per cent or 5 per cent, depending on the timing of the availability of the capacity, multiplied by the value of one year of the contract. • Is payable within 20 business days of being notified by GGT to pay the capacity deposit. Where the capacity deposit is not paid, GGT may withdraw the access proposal (offer) and remove the prospective user’s registration of interest from the register for access to services. • Must be refunded once a transportation agreement between the prospective user and GGT is finalised. <p>The ERA notes that the prudential requirements for the payment of a capacity deposit upon acceptance of an access proposal (offer) is intended to prevent nuisance access requests. The calculation of the deposit, payment terms and refundability are reasonable provisions that would be acceptable to prospective users who are genuinely seeking access to a service.</p> <p>The ERA further notes that there is a drafting error in Section 5.9(b) where GGT has referred to “Capacity Queue” instead of “Capacity Deposit”. [See Required Amendment 8.8]</p>
<p>Section 5.10 [user acceptance] New drafting to make clear that upon acceptance of an access proposal, GGT and the prospective user must negotiate in good faith to reach agreement on the terms and conditions of the transportation agreement.</p>	<p>New drafting makes clear that the prospective user and GGT must negotiate in good faith to reach agreement on the terms and conditions of a transportation agreement when the prospective user accepts an access proposal (offer).</p> <p>The ERA considers that this new provision is not needed given the following other provisions in Section 5.8 of the proposed access arrangement:</p> <ul style="list-style-type: none"> – Section 5.8.1(c)(iii) allows GGT to provide, with the Notice of Auction for Spare Capacity, the indicative terms and conditions upon which the spare capacity may be made available, and for the prospective user to engage with GGT to discuss the potential terms and conditions. Where the service being sought is the Firm Transportation Service, the terms and conditions are those set out in Schedule D of the access arrangement.

⁸ ERA, *Proposed revisions to the access arrangement for the Goldfields Gas Pipeline: Issues paper*, 12 March 2024, p. 30 (footnote 79).

GGT proposal	ERA consideration(s)
	<ul style="list-style-type: none"> - Section 5.8.1(d)(iii) requires a prospective user's complying bid to contain the terms and conditions relevant to the service to which the bid applies in a form that is capable of immediate acceptance by GGT. - Section 5.8.1(f) requires a prospective user to consult with GGT on potential alternative terms and conditions prior to submitting a bid in response to a Notice of Auction for Spare Capacity. <p>The above provisions mean that upon acceptance of an access proposal in these circumstances, the terms and conditions should already be acceptable to both prospective user and GGT, making the provisions of new Section 5.10 redundant.</p> <p>The ERA does note that in circumstances where a prospective user makes an access request in accordance with Section 5.1, using the Schedule B form, the user is required to specify the terms and conditions on which the service is requested that are different to the Firm Transportation Service terms and conditions (i.e. the reference service terms and conditions). If GGT can provide the service in the access request, it must provide the prospective user with the terms and conditions on which GGT is prepared to provide the service (i.e. these terms and conditions form part of the access proposal (offer) under Section 5.3.2). The ERA considers that the provisions of new section 5.10 may be relevant in this circumstance and if so, GGT could retain new Section 5.10 provided it is clear that it only applies in relation to an access request made under Section 5.1 and access offer made under Section 5.3.2. [See Required Amendment 8.9]</p>
<p>Section 5.11 [developable capacity] Drafting amendments to simplify and remove duplication of requirements to undertake expansions (which is set out in Section 7 of the access arrangement).</p>	<p>Drafting amendments simplify and remove duplication of provisions for developable capacity by making reference to the provisions of Section 7 of the access arrangement, which cover extension and expansion requirements. The amendments do not materially change the existing provisions for developable capacity or extension and expansion requirements.</p> <p>The amendments further confirm that:</p> <ul style="list-style-type: none"> • GGT may publish a notice for developable capacity on its website, any newspaper or on social media. • Time periods for processes related to developable capacity may be extended by written agreement between GGT and the prospective user.

Appendix 1 List of Tables

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Appendix 2 National Gas Rules

The National Gas Law (NGL) and National Gas Rules (NGR), as enacted by the *National Gas (South Australia) Act 2008*, establish the legislative framework for the independent regulation of certain gas pipelines in Australia. The *National Gas Access (WA) Act 2009* implements a modified version of the NGL and NGR in Western Australia.

The legislative framework for the regulation of gas pipelines includes a central objective, being the national gas objective, which is:

... to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to—

- (a) price, quality, safety, reliability and security of supply of natural gas; and
- (b) the achievement of targets set by a participating jurisdiction—
 - (i) for reducing Australia’s greenhouse gas emissions; or
 - (ii) that are likely to contribute to reducing Australia’s greenhouse gas emissions.

Note—

The AEMC must publish targets in a targets statement: see section 72A.⁹

The following extracts of the NGR, as they apply in Western Australia, are provided for information to assist readers.

99 Fixed principles

- (1) A full access arrangement may include a principle declared in the access arrangement to be fixed for a stated period.
- (2) A principle may be fixed for a period extending over 2 or more access arrangement periods.
- (3) A fixed principle approved before the commencement of these rules, or approved by the [ERA] under these rules, is binding on the [ERA] and the service provider for the period for which the principle is fixed.
- (4) However:
 - (a) the [ERA] may vary or revoke a fixed principle at any time with the service provider's consent; and
 - (b) if a rule is inconsistent with a fixed principle, the rule operates to the exclusion of the fixed principle.

...

103 Queuing requirements

- (1) An access arrangement must contain queuing requirements if:
 - (a) the access arrangement is for a transmission pipeline; or

⁹ NGL, section 23.

The national gas objective has changed since the last review of GGT’s access arrangement. The amended objective came into effect in Western Australia on 25 January 2024. See: *Western Australian Government Gazette 24 January 2024 No.8* ([online](#)) (accessed July 2024).

- (b) the access arrangement is for a distribution pipeline and the [ERA] notifies the service provider that the access arrangement must contain queuing requirements.
- (2) If the [ERA] gives a notification under subrule (1), the access arrangement must contain queuing requirements as from the commencement of the first access arrangement period to commence after the date of the notification (but this requirement lapses if the [ERA], by notice to the service provider, withdraws the notification).
- (3) Queuing requirements must establish a process or mechanism (or both) for establishing an order of priority between prospective users of spare or developable capacity (or both) in which all prospective users (whether associates of, or unrelated to, the service provider) are treated on a fair and equal basis.
- (4) Queuing requirements might (for example) provide that the order of priority is to be determined:
 - (a) on a first-come-first-served basis; or
 - (b) on the basis of a publicly notified auction in which all prospective users of the relevant spare capacity or developable capacity are able to participate.
- (5) Queuing requirements must be sufficiently detailed to enable prospective users:
 - (a) to understand the basis on which an order of priority between them has been, or will be, determined; and
 - (b) if an order of priority has been determined – to determine the prospective user's position in the queue.

104 Extension and expansion requirements

- (1) Extension and expansion requirements may state whether the applicable access arrangement will apply to incremental services to be provided as a result of a particular extension to the pipeline made during the access arrangement period or may allow for later resolution of that question on a basis stated in the requirements.
- (2) Extension and expansion requirements may, if the service provider agrees, state that the applicable access arrangement will apply to incremental services to be provided as a result of a particular extension to the pipeline made before the revision commencement date for the applicable access arrangement.
- (3) Extension and expansion requirements must state that the applicable access arrangement will apply to incremental services to be provided as a result of any expansion to the capacity of the pipeline during the access arrangement period and deal with the effect of the expansion on tariffs.
- (4) Extension and expansion requirements included in a full access arrangement must, if they provide that an applicable access arrangement is to apply to incremental services provided as a result of an extension to the pipeline:
 - (a) in the case of extensions made before the revision commencement date for the applicable access arrangement deal with:
 - (i) the effect of the extension on the opening capital base under rule 77(2)(c1); and
 - (ii) the effect of the extension on the description of reference services specified in the access arrangement proposal; and
 - (b) in all cases, deal with the effect of the extension on tariffs.

- (5) The extension and expansion requirements cannot require the service provider to provide funds for work involved in making an extension or expansion unless the service provider agrees.

105 Capacity trading requirements

- (1) Capacity trading requirements must provide for transfer of capacity:
- (a) if the service provider is registered as a participant in a particular gas market – in accordance with rules or Procedures governing the relevant gas market; or
 - (b) if the service provider is not so registered, or the relevant rules or Procedures do not deal with capacity trading – in accordance with this rule.
- (2) A user may, without the service provider's consent, transfer, by way of subcontract, all or any of the user's contracted capacity to another (the third party) with the following consequences:
- (a) the transferor's rights against, and obligations to, the service provider are (subject to paragraph (b)) unaffected by the transfer; but
 - (b) the transferor must immediately give notice to the service provider of:
 - (i) the subcontract and its likely duration; and
 - (ii) the identity of the third party; and
 - (iii) the amount of the contracted capacity transferred.
- (3) A user may, with the service provider's consent, transfer all or any of the user's contracted capacity to another (the third party) with the following consequences:
- (a) the transferor's rights against, and obligations to, the service provider are terminated or modified in accordance with the capacity trading requirements; and
 - (b) a contract arises between the service provider and the third party on terms and conditions determined by or in accordance with the capacity trading requirements.
- (4) The service provider must not withhold its consent under subrule (3) unless it has reasonable grounds, based on technical or commercial considerations, for doing so.
- (5) An adjustment of rights and liabilities under subrule (3) does not affect rights or liabilities that had accrued under, or in relation to, the contract before the transfer took effect.
- (6) The capacity trading requirements may specify in advance conditions under which consent will or will not be given, and conditions to be complied with if consent is given.

106 Change of receipt or delivery point by user

- (1) An access arrangement must provide for the change of a receipt or delivery point in accordance with the following principles:
- (a) a user may, with the service provider's consent, change the user's receipt or delivery point;
 - (b) the service provider must not withhold its consent unless it has reasonable grounds, based on technical or commercial considerations, for doing so.

- (2) The access arrangement may specify in advance conditions under which consent will or will not be given, and conditions to be complied with if consent is given.