

7 August 2001

The Hon John Howard MP  
Prime Minister  
Parliament House  
CANBERRA ACT 2600

Dear Prime Minister

The Australian Pipeline Industry Association (APIA), the peak national body representing Australia's natural gas transmission industry, is an active and informed stakeholder on policy developments impacting upon pipeline development opportunities in Australia.

APIA has expressed major concerns about current trends in economic regulation, recent and proposed taxation changes and the uncertainty these changes have created for private sector gas pipeline investments.

APIA was therefore pleased that the Council of Australian Governments (CoAG) recently reaffirmed the important strategic role that natural gas must play in securing Australia's energy future. This accords with the views expressed in government and industry about the substantial benefits provided by gas transmission infrastructure including environmental benefits (notably greenhouse), regional development, energy supply security and national economic development.

These benefits will only be realised if government policy settings support the development of the necessary infrastructure. Otherwise customers will face higher energy prices, regional development opportunities and major projects will stall and be lost and gas will not be made available to many prospective gas users.

Recent developments, including the proposed supply of gas from PNG, the Timor Sea and the Otway Basin, raise important policy and political questions about the impact of recent changes to Australia's fiscal, legal, taxation and regulatory framework on major gas developments.

APIA agrees wholeheartedly with the CoAG energy policy objective to:

*"...provide the degree of transparency and clarity in government decision-making required to achieve confidence in current and future investment decisions."*

However, this industry's experience with the emerging economic regulatory framework (including the stated intentions of economic regulatory bodies regarding their preferred future path) suggests that the macro policy setting, and not transparency, is the issue. When these developments in economic regulation are combined with recent and proposed changes regarding the taxation of major infrastructure, CoAG's expectation that gas will play an increasingly important role in the economy is at risk.

I wish to convey to you APIA's concern regarding the loss of confidence amongst Australia's pipeline community with the current pipeline development environment. Both investors in Australia's pipeline infrastructure and the wider college of industry participants share this concern.

The next six months will be critical for a number of investment decisions crucial to establishing the future role of gas in Australia. As things stand, we expect our members to rigorously contest these opportunities for investment. This should not, however, be taken as an indication that all is well with current regulatory policy settings. It simply reflects:

- the fact that, until our members have taken the decision to withdraw from the industry, they will not willingly yield market share to their competitors; and
- hope that something will be done by Government to correct current policy settings.

Major investor members of APIA have indicated that their investment plans are being modified because of current regulatory settings.

Epic Energy, for example, has stated publicly that it will scale down its Darwin to Moomba pipeline development (to meet only the initial contract load) in order to minimise regulatory risk. The Australian Pipeline Trust has indicated that, unless it is confident the contract prices negotiated with shippers are secure for the life of the project and that these prices will be accepted as the “third party tariff” for identical services, then it will not proceed with its proposed pipeline from Darwin to eastern and southern gas markets. In the same vein at a recent meeting of APIA’s broad industry base, constructor and supplier members expressed concern at the recent trend for pipeline projects and pipeline designs to be dominated by regulatory considerations, resulting in considerable uncertainty and delays for suppliers of products and services to the industry.

APIA is concerned that current policies targeted selectively at gas transmission pipelines and other infrastructure-based activity are grossly distorting investment decision making.

The initiatives announced by CoAG are important and welcome. APIA will be an enthusiastic contributor to the work program flowing therefrom. However, it is likely that those initiatives will not be given effect in the timeframe needed to support imminent major gas project investment decisions. The threat to investment is already upon us and urgent action is warranted.

In parallel with the CoAG initiative, therefore, APIA believes there is a need for all relevant parties to make clear their respective positions on a number of key issues. We do not believe pipeline developers can wait for the completion of a policy review process that has yet to commence and which, based upon this industry’s experiences with similar undertakings relating to gas reform, is unlikely to be completed in accordance with the timetable originally envisaged.

Accordingly, I outlined in my most recent President’s message to members of the association (copy attached) APIA’s concerns regarding a number of key questions, namely:

1. does the Government support the reform model proposed in the Hilmer report and does it reject the use of access regulation as a means to introduce heavy-handed price control;
2. does the Government support infrastructure development through the continued application of accelerated tax depreciation for infrastructure assets and oppose the adoption of the “effective life” policy;
3. will the Government ensure that it does not support access regulation that is used to overturn established legislated and contractual rights;
4. will the Government ensure that it does not support regulatory determinations that set access prices for new pipeline users at levels below the prices paid by existing pipeline users who through arms-length negotiations underwrote the original investment (foundation customers); and
5. does the Government support the speedy introduction of the recommendations arising from the Productivity Commission’s current inquiry into Part IIIA of the Trade Practices Act (Access Regime) designed to improve the environment for investment in infrastructure?

I have also attached copies of:

- my April report to APIA Members;
- my address presented to the Pipeline Development Forum "*Towards a National Gas Transmission Grid*" on 1 August 2001; and
- a copy of our Executive Director's address to the SEAAOC Timor Sea Development Conference in Darwin on 19 June 2001.

These papers outline the focus of our concerns and emphasise the fact that we are concerned to resolve macro policy settings, not the calculation of micro regulatory algorithms.

The members of APIA would appreciate and welcome the Government's response to the questions raised above and look forward to an effective and productive dialogue in relation to the various CoAG Energy Policy and Market Initiatives. We plan to put this same set of questions to the governments of the State jurisdictions and to the leaders of the Opposition and the Australian Democrats. I plan to report the responses of all parties approached to APIA's membership at our annual conference in October.

We would welcome an opportunity to discuss the concerns of our industry and to explore options that will facilitate critically needed investment if this would assist your consideration of these issues.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Lauer', enclosed within a large, loopy oval shape.

Mike Lauer  
**President**

cc Senator the Hon Nick Minchin, Minister for Industry, Science and Resources