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Mr. Dane Gunnell  
Project Manager, CPP Fast Track  
Regulation Branch  
Commerce Commission

Dear Dane,

Please regard this as our submission to the Commerce Commission ("the Commission") on the "Draft decision for Limb 1 of the CPP fast track" with a publication date of 7 September 2015. In this letter we will use the terms "MDL", "we", "us" or "our" to refer to the Gas Transmission Business (GTB) of Maui Development Limited.

Overall, we broadly support the views and proposed amendments in the Draft Decision paper. Our specific comments are set out below under the same headings as used in that paper.

### **Modification or exemption from CPP process or content requirements**

We agree with the proposed approach and process set out under this heading. On balance, we consider it represents a good combination of potential flexibility for dealing with applications, with certainty on the requirements when applications are submitted.

We also agree that the Commission should generally be able to make its decisions on modifications or exemptions without need for external consultation. We acknowledge this may not always be the case, but we hope such exceptions would be rare. In cases when external consultation is considered necessary we recommend it should be limited in scope and time.

We invite the Commission to consider whether the newly proposed clause 5.1.6(1) for GTBs (and perhaps GDBs) should include Subpart 4 (relating to Pricing Methodologies) as well. Perhaps, the Commission regards pricing methodologies as not being part of CPP application requirements, in which case Subpart 4 can indeed be left out. If there is a potential impact, however, then we suggest that expanding the scope of the clause to allow an exemption from Subpart 4 could be useful and appropriate.

We also invite the Commission to consider whether 5.1.6(1) for GTBs could include Section 3 of Subpart 3 as well. This relates to the treatment of taxation. We acknowledge that this topic may be beyond the scope of what the Commission wants to address as part of the fast-track process. However, we would like to remind the Commission of the difficulties MDL faces in relation to providing tax information; as set out in our submission of 21 August 2015.

We note that the new proposed clause 5.1.7(2)(b)(iii) refers to a specific date on which the applicant intends to submit the CPP. While such an intent would presumably not be a binding commitment for the applicant, it may be useful to soften this language. For example, by changing the reference to a "submit by" date, or to a period.

A potential risk or weakness is the requirement from the phrase "supported by appropriate evidence" in the new clause 5.1.7(2)(b)(v). The first part of that clause (v) is reasonable. The additional phrase, however, could cause problems. For example, how can one provide "evidence" that some type of information is not available? We suggest the Commission reconsider whether that phrase is necessary, or can be reworded more appropriately.

We question the practicality of the proposed clause 5.1.8(d). It is not immediately obvious to us what is meant by "the relevant locations within the CPP application". Even if it were obvious, it seems like an awkward addition to the requirement in clause 5.1.8(b).

## Alternative methodologies with equivalent effect

We support the proposed amendments under this heading.

Our only concern is with the requirement in the proposed clause 5.4.34(1)(d) (as numbered for EDBs) to provide "evidence" to demonstrate that each alternative methodology:

- (i) "produces an equivalent effect ... to the methodology that would otherwise apply ..."
- (ii) "does not detract from the promotion of the purpose of Part 4 ..."

With respect to (i) we are concerned that it may only be possible to provide evidence for equivalence by applying both the original input methodology and the alternative. If this were indeed required, then it could negate most, if not all, of the benefit of having an alternative.

With respect to item (ii) we expect this may be a matter of opinion. We assume an applicant would indeed be motivated to provide its opinion, bolstered by evidence if available, but requiring evidential proof seems like a high hurdle to cross.

We also invite the Commission again to reconsider whether the proposed amendments could be (made) applicable to Pricing Methodologies for GTBs.

## Assessing a CPP proposal that is complete in all material respects

We support the approach and proposed amendments under this heading.

## Clarifying which input methodologies apply, and when

We support the Commission's view that the IMs in force when a CPP application is made should apply to the CPP application. We are particularly persuaded by the argument that a CPP application is irrevocable after it is made. We agree that subsequent IM changes (which remain possible under section 53V(2)(c) of the Act) should not be imposed without agreement from the applicant.

We do not have a strong view on whether this interpretation should be explicitly included in the IMs. Even if there is no actual effect, however, the clarity of the IMs as a stand-alone document may be improved by including some text to cover this interpretation.

## Conclusion

The proposed amendments in the fast-track process represent a pragmatic approach for making short-term improvements. We note they should not prevent a more thorough review of the CPP regime as part of the overall IM review. We expect that further improvements are possible and could provide even greater benefits.

We have appreciated the opportunity to provide this submission. For any additional questions or clarifications please do not hesitate to contact us.

Yours sincerely,



Jelle Sjoerdsma  
Commercial Operator, Maui Pipeline  
**for Maui Development Limited**