



63 Hout Street, Mercantile Building

Cape Town, 8000, South Africa.

**TEL:** +27 21 426 1633

**ATT:** Allan Basajjasubi

**EMAIL:** [jacqueline@naturaljustice.org](mailto:jacqueline@naturaljustice.org) and [allan@naturaljustice.org](mailto:allan@naturaljustice.org)

ATTN: Mr Arico Kotze

BY EMAIL: [gas-pcee@parliament.gov.za](mailto:gas-pcee@parliament.gov.za)

## **COMMENTS ON THE DRAFT GAS BILL- 2026**

### **INTRODUCTION**

1. Natural Justice: Lawyers for Communities and the Environment is a non-profit organization, registered in South Africa in 2007. Our vision is the conservation and sustainable use of biodiversity through the self-determination of indigenous peoples and local communities.
2. Our mission is to facilitate the full and effective participation of Indigenous peoples and local communities in the development and implementation of laws and policies that relate to the conservation and customary uses of biodiversity and the protection of associated cultural heritage. Through the JET Initiative within Natural Justice, we wish to achieve just energy transitions for Indigenous Peoples and communities.
3. Natural Justice works at the local, national, regional, and international levels with a wide range of partners. We strive to ensure that community rights and responsibilities are represented and respected on a broader scale and that gains made in international fora are fully upheld at lower levels.
4. Natural Justice wishes to submit its comments to the Portfolio Committee on Electricity and Energy. We further express our request to make a verbal submission or participate in any meaningful engagements with the Committee when an opportunity arises.
5. We submit to the Portfolio Committee on Electricity and Energy, the following comments pertaining to the gazette ***Publication of the Draft Gas Bill***. The gazette for public comment was published on the 16<sup>th</sup> of July 2026.
6. These comments are Natural Justice's contribution to ensure that appropriate and effective legislation is passed to protect the environment and the communities we serve.
7. The Commentary is set out as follows: - Contextual Background, general comments, specific comments, and the conclusion.

## *Contextual Background*

8. The Gas Bill 2026 is a substantial regulatory reform. It replaces the Gas Act 2001 with a more comprehensive framework that addresses long-standing gaps in licensing, enforcement, tariff regulation and market development. We acknowledge those improvements.
9. Our central concern is this: the Bill builds significant regulatory machinery for gas infrastructure development but embeds very thin environmental safeguards, including clear decommissioning requirements. It repeatedly defers substantive environmental protection to other legislation — NEMA, the NWA, environmental impact assessment regulations — without integrating those frameworks in any operationally meaningful way. That deferral may look tidy on paper, but it tends to produce gaps in practice. Licences get issued, disputes arise, and the absence of clear environmental conditions in the gas regulatory instrument itself becomes a problem.

Three issues stand out above the others:

- 9.1. The Bill's definition of 'gas' includes hydrogen-rich and low-carbon gases alongside LNG and fossil gas, but the regulatory framework makes no distinction between them. A regime designed to facilitate LNG import infrastructure will not automatically serve as a basis for transition.
  - 9.1.1. There is no climate change impact assessment requirement anywhere in the Bill.

Section 7(1)<sup>1</sup> of the Climate Change Act 22 of 2024 is in force and already requires every organ of state to coordinate and harmonise its policies, plans, programmes and decisions in a manner that gives effect to the Act's objects. That operative obligation applies now. The Gas Bill and the Act's implementing regulations are being developed in parallel, and a Bill that ignores climate impact assessment will be harder to align with those obligations once the regulations are promulgated.
- 9.2. Water and air quality obligations are mentioned only by cross-reference to other legislation, without any condition-setting power given to the Energy Regulator in relation to gas infrastructure. The ERRA's compliance and enforcement architecture is stronger in this regard.
  - 9.2.1. The gas master plan in section 27 does not require a climate compatibility assessment or alignment with South Africa's Nationally Determined Contribution (NDC). This is a structural gap. The Climate Change Act is in force and creates domestic legislative commitments that must inform gas-sector planning, including the national greenhouse gas emissions trajectory contemplated in section 24(3). Until the Minister publishes the national greenhouse gas emissions trajectory in terms of section 24(1), the latest updated NDC serves as the operative trajectory. The gap will become more acute as the DFFE regulatory process concludes and specific targets become legally binding.
- 9.3. The Bill makes no or little mention of international commitments to climate change and subsequent policy which speaks to just energy transitions. It is drafted in isolation of the

---

<sup>1</sup> Every organ of state that exercises a power or performs a function that is affected by climate change or is entrusted with powers and duties aimed at the achievement, promotion and protection of a sustainable environment must review and, if necessary, revise, amend, coordinate and harmonise its policies, laws, measures, programmes and decisions in order to:

- (a) ensure that the risks of climate change impacts and associated vulnerabilities are taken into consideration
- (b) give effect to the principles and objects set out in this Act

Just Transition Framework, the Just Energy Transition Partnership and the recently entered Clean Trade and Investment Partnership. It ignores the international trade environment with the recent introduction of the Carbon Border Adjustment Mechanism which will tax goods which have utilised fossil fuels, including gas. The push for investment into gas could push out and disrupt plans such as the South African Renewable Energy Masterplan.

#### General Comments:

#### *Comparative Assessment between the Electricity Regulation Amendment Act and the Gas Bill*

10. The Electricity Regulation Amendment Act, 2024 (ERA) provides the most recent benchmark for energy-sector regulatory design in South Africa. While the Gas Bill 2026 seeks to modernise and replace the Gas Act, 2001, it does so within a legal and policy environment fundamentally shaped by constitutional environmental obligations, the Climate Change Act, contemporary energy planning instruments, and growing expectations of regulatory accountability.
11. A comparison between the Gas Bill and the ERA reveals an important pattern: while the Gas Bill broadly mirrors the ERA in its institutional structure, licensing architecture and inspection powers, it is significantly weaker in integrating environmental governance, climate accountability, community protection and long-term transition planning into the regulatory regime.
12. The concern is therefore not that the Gas Bill lacks regulation. Rather, the concern is that it establishes an extensive framework for facilitating gas infrastructure development without embedding equivalent safeguards to ensure that environmental protection, climate commitments, water resources, and community interests are considered as part of core regulatory decision-making.

#### *Environmental Governance is treated as an external rather than Internal Regulatory Function*

13. A recurring feature of the Gas Bill is its reliance on cross-references to environmental legislation rather than direct environmental regulatory powers
14. Under the ERRA, the regulator enjoys broad discretion to impose license conditions necessary to achieve the purposes of the Act. This provides flexibility to incorporate environmental considerations, renewable energy objectives and public-interest concerns directly into licensing decisions.
15. By contrast, the Gas Bill's license condition framework is heavily focused on commercial, operational and technical matters. Environmental obligations are largely left to separate regulatory processes under NEMA and related legislation. The result is a form of regulatory fragmentation where environmental compliance occurs on a parallel track rather than being integrated into gas-sector licensing itself.
16. This distinction is significant. In practice, licenses issued by the Energy Regulator are likely to be the principal authorization relied upon by developers, financiers and operators. If environmental obligations are not reflected in the license itself, enforcement becomes dependent on separate

authorities acting under separate legislation. This increases the risk of regulatory gaps, inconsistent conditions and avoidable legal disputes.

17. From an oversight perspective, Parliament should consider whether the Energy Regulator ought to have an explicit power—and indeed a duty—to impose environmental license conditions that complement, rather than duplicate, requirements under environmental legislation.
18. Consideration of the National Environmental Management Act 1998 should be considered in respect of development needing to be socially, environmentally and economically sustainable. No reference or provision speaks to this, and in actual facts agrees, that gas may not be economically sustainable with clauses advising that profits must be ensured in accordance with risk and that licensees can surrender licenses if the facility or activity is not considered economically justifiable. Therefore, it is unclear why the push for gas continues, when it does not align with environment law criteria or is economically sound.<sup>2</sup>
19. In terms of a recommendation, the committee should consider recommending amendments that:
  - 19.1. Explicitly empower the Energy Regulator to impose environmental licence conditions;
  - 19.2. Require environmental authorisations and licence conditions issued under other legislation to be incorporated into gas licences
  - 19.3. Ensure environmental compliance forms part of ongoing licence monitoring and enforcement.
  - 19.4. Conduct a feasibility and strategic environmental assessment.

*Climate Change Governance Represents the Most Significant Structural Gap in the Bill*

20. The most serious weakness in the Gas Bill concerns climate governance. In comparison the ERRA establishes at least an indirect planning linkage to South Africa's Integrated Resource Plan (IRP) through ministerial determinations and tariff-setting mechanisms. Although not a climate statute, it nonetheless requires regulatory decisions to occur within a broader planning framework.
21. The Gas Bill contains no equivalent requirement. Neither the Gas Master Plan nor ministerial determinations for new gas infrastructure are required to assess the following, including the climate resilience of proposed infrastructure and the medium- to long-term climate projection impacts for any gas project:
  - 21.1. Consistency with South Africa's Nationally Determined Contribution (NDC)
  - 21.2. The Climate Change Act, 2024
  - 21.3. Sectoral emissions trajectory
  - 21.4. Long term decarbonisation pathways
  - 21.5. Lifecycle greenhouse gas emissions.

---

<sup>2</sup> University of Cambridge Institute for Sustainability Leadership. (2024). Africa's Gas Road to Nowhere (Cambridge, UK: University of Cambridge Institute for Sustainability Leadership).

22. This omission in the Bill is particularly problematic given the capital-intensive nature of gas infrastructure. Pipelines, LNG terminals and storage facilities are designed to operate for decades. Decisions taken under the Bill today will shape South Africa's energy and emissions profile well beyond 2040.
23. Reasonable arguments can be made that gas may assist with energy security and grid stability during a period of coal decommissioning. The issue is whether infrastructure approvals should occur without any formal assessment of their compatibility with South Africa's climate commitments.
24. The current drafting creates the possibility that major gas infrastructure could be authorised without decision-makers having to evaluate whether the project aligns with long-term transition objectives.
25. In terms of a recommendation, the committee should consider engaging with the Department on the necessity of ensuring the below mentioned aspects are included or integrated into the the Bill:
  - 25.1. A climate compatibility assessment requirement for the Gas Master Plan;
  - 25.2. Mandatory consideration of the Climate Change Act and NDC commitments in ministerial determinations;
  - 25.3. Lifecycle greenhouse-gas assessments for major facilities
  - 25.4. Periodic review mechanisms allowing licence conditions to evolve as climate obligations become more specific

#### *Long-Term LNG Lock-In and Stranded Asset Risk Remain Unaddressed*

26. Closely linked to the climate gap is the issue of LNG lock-in. The Bill applies the same regulatory framework to fossil gas infrastructure and future low-carbon gases despite recognising both within the definition of "gas". This creates a risk that regulatory arrangements designed to support LNG infrastructure become entrenched for decades, even as South Africa's energy system evolves.
27. South Africa faces a genuine dilemma. The country needs to phase out coal rapidly to meet its climate commitments and to address the electricity supply crisis. Renewable energy is the long-term answer, but intermittency requires dispatchable backup generation while battery storage costs continue to fall. Gas — specifically 6 GW of Combined Cycle Gas Turbine (CCGT) capacity — has been confirmed as that backup in the IRP 2025, gazetted on 28 October 2025.
28. This is not a speculative policy position. It is a gazetted Policy Decision. The IRP 2025 (Policy Decision 2) states explicitly that 6 GW of gas CCGT by 2030 is 'crucial in ensuring and maintaining security of supply when the 8 GW of baseload operation of coal-fired stations is shutdown.' The IRP also requires a minimum load factor of 50% for this initial gas-to-power programme 'to anchor upstream gas processing infrastructure.' That language has direct implications for the Gas Bill — it confirms that gas infrastructure is being planned not just as flexible peaking capacity, but as baseload-anchoring infrastructure that requires a viable gas supply chain. The Gas Bill is the

primary regulatory instrument through which that gas supply chain will be licensed and governed. There is therefore a real risk that determinations or procurement steps taken to secure large-scale, high-load-factor gas under the IRP may be taken on review or otherwise legally challenged if the IRP gas policy outcome is not shown to align with least-cost power planning, the public interest, and the constitutional rights potentially affected by long-term fossil gas lock-in.

29. But here is the tension the Gas Bill must manage. The IRP 2025 itself acknowledges that 'securing LNG and associated infrastructure in South Africa by 2030 remains a risk and may require policy adjustment to ensure timelines are met.' That is the IRP flagging, in a gazetted planning instrument, that LNG supply infrastructure is uncertain and time-sensitive. The Gas Bill is the legislation that will govern whatever infrastructure is eventually built to meet that need. If the infrastructure is built quickly to meet the 2030 deadline and then licensed for 25 years, it will operate until 2055. The IRP may also become increasingly academic as the South African Wholesale Electricity Market is developed to guide electricity and energy development through market demand and market prices. It is therefore risky for the Bill to base long-term infrastructure development on electricity policy assumptions that are in flux and subject to wider power-sector reform.
30. The IRP's own Balanced Plan, however, makes no proposals for new gas build beyond 2040, and shows gas declining in the energy mix from 2036 onward as BESS and wind dominate. There is a gap between the infrastructure that will be built to meet the 2030 commitment and the infrastructure that the long-term energy plan actually needs beyond 2040
31. The Gas Bill, as currently drafted, provides no mechanism to manage this risk. It treats all gas infrastructure the same regardless of its role in the transition. A 25-year LNG terminal licence granted under this Bill carries no requirement to assess whether the facility is consistent with the IRP 2025's trajectory — which shows gas declining post-2036 — no condition requiring a decommissioning pathway aligned with the IRP's planning horizon, and no obligation to demonstrate that the facility is part of a managed transition rather than a permanent fixture.
32. Furthermore, the IRP 2025 has been heavily critiqued for its unrealistic and expensive over reliance on gas, and for being out of touch with the current realities of South Africa's power sector market reforms.<sup>3</sup>
33. The Climate Change Act's sectoral emissions targets are still under development at DFFE, but the IRP 2025 itself projects electricity sector CO<sub>2</sub> emissions falling from 168 Mt in 2030 to 142 Mt by 2035. Gas infrastructure licensed now needs to be designed and conditioned in a way that supports rather than contradicts that trajectory.
34. Our concern is that despite the fact that this is a policy question for the Department and Cabinet to consider, we make the argument that if gas infrastructure is to be built, the regulatory framework governing it should be designed to manage the transition risk, not ignore it. That means:

---

<sup>3</sup> See Meridian Economics Report. <http://meridianeconomics.co.za/wp-content/uploads/2025/08/Draft-IRP-2025-Presentation-Grove-Steyn.pdf>

35. The absence of transition-oriented licence conditions within the Bill creates three risks:
  - 35.1. **Climate risk** – prolonged operation of emissions-intensive infrastructure
  - 35.2. **Economic risk** – stranded assets that become uneconomic before the end of their licence period;
  - 35.3. **Social risk** – communities and workers becoming dependent on infrastructure whose long-term viability is uncertain.
36. The Bill therefore facilitates gas infrastructure development but provides no mechanism to manage the transition away from fossil gas should national policy require it.
37. In terms of a recommendation, the committee should consider engaging with the Department with how it intends to deal with or manage the following:
  - 37.1. Requiring climate impact assessment as part of the licensing process for LNG facilities above a prescribed capacity threshold, with explicit assessment of consistency with the IRP 2025 CO<sub>2</sub> trajectory and the declining role of gas post-2036.
    - 37.1.1. Requiring licence conditions for LNG facilities to include a carbon management plan demonstrating how the facility fits within South Africa's emissions trajectory, and specifically how it will adapt as gas's role diminishes in the IRP Balanced Plan after 2040, including how licensing will adapt to material power-sector reforms and to a market environment dictated by the South African Wholesale Electricity Market, which may leave only a limited role for gas.
  - 37.2. Limiting LNG operation licence terms to a period aligned with the IRP's planning horizon. The IRP 2025 makes no gas build proposals beyond 2040. A 25-year licence from 2027 runs to 2052. Licence conditions, not just licence terms, should be designed to manage the gap.

*Water Resource Protection Is Surprisingly Weak Given the Nature of Gas Infrastructure*

38. Unlike electricity infrastructure, gas infrastructure frequently intersects directly with water resources.
39. Pipelines cross rivers and wetlands. LNG terminals require significant water-related infrastructure. Storage facilities can affect groundwater systems. Construction activities may create both temporary and long-term ecological impacts.
40. Despite these realities, the Gas Bill contains no substantive relationship with the National Water Act.
41. Environmental principles contained in NEMA provide a broad framework, but they do not create a direct operational link between gas licensing and water-use regulation. A developer could theoretically advance through substantial portions of the gas licensing process without demonstrating how water-related regulatory obligations will be met.
42. This is a notable omission because water impacts are not peripheral to gas infrastructure—they are intrinsic to it.
43. In terms of a recommendation, the committee should consider requiring of the Department discussion of the necessity of the following within the architecture of the Bill
  - 43.1. Evidence of water-use authorisations during licensing processes;
  - 43.2. Explicit references to the National Water Act
  - 43.3. Incorporation of water licence conditions into gas licences
  - 43.4. Ongoing monitoring and reporting obligations relating to water resources.

### *Community Rights and Energy Justice Require Stronger Protection*

44. The Bill's treatment of communities affected by gas infrastructure is another area where the comparison with the ERA raises concerns.
45. The ERA contains more prescriptive requirements regarding publication, language accessibility and public participation. The Gas Bill leaves many of these matters to future rules issued by the Regulator.
46. In some instances, the Gas Bill goes as far to outright exclude access to information with the proviso of protecting non-generic, confidential, personal, commercially sensitive or of a proprietary nature. It overly emphasises and protects information and commercial interests of business. However, advises on the one of the purposes of this gas industry being for public interest. Should gas be for public/national interest, all information should be of public records, especially the licenses and agreements entered into.
47. Consultation is impacted by the inference to declare these projects strategic integrated energy projects or exempt certain activities from licenses. This would either limit or entirely remove meaningful participation.
48. This approach may appear administratively flexible, but it creates uncertainty and weakens minimum guarantees for affected communities. The most vulnerable communities are often those least likely to access conventional publication channels and most likely to experience the direct impacts of infrastructure development. Notification mechanisms that are adequate for commercial stakeholders may be entirely inadequate for rural communities, traditional communities and residents living near proposed LNG facilities or pipelines.
49. Similarly, the Bill's non-discrimination provisions focus primarily on existing customers rather than broader questions of energy justice and equitable access. Consequently, households excluded on affordability grounds, or communities affected by infrastructure without receiving energy benefits, remain largely outside the scope of protection. The Bill should therefore include a separate provision institutionalising community and household access, justice and benefits, and should ensure that these issues feature more prominently throughout its principles, objects and licensing framework.
50. In terms of a recommendation, the committee should consider requiring of the Department discussion of the necessity of the following within the architecture of the Bill:
  - 50.1. Mandatory multilingual publication requirements.
  - 50.2. Local-level notification obligations.
  - 50.3. Health impact assessments for major gas facilities
  - 50.4. Expanded non-discrimination provisions covering prospective customers and affected communities.
  - 50.5. Stronger participatory mechanisms for communities directly affected by infrastructure projects.

### *Arguments based on energy security*

51. Energy security is not a primary objective of law and policy. It is not in line with international trends and developments.
52. Instead, current and most recent driver of energy policy and laws is energy justice as countries across the globe recognise the need for the sustainable use of all energy sources and improving justice throughout the energy life cycle for each energy source.
53. An energy justice lens puts distributive, procedural, recognition, and restorative justice principles at the heart of all energy policy decision-making. This clearly resonates with the Just Transition Framework. According to one of the mainstream ways of thinking about energy justice, these principles are:<sup>4</sup>

| NE                               | Description                                                                                                                                                        |
|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Availability                     | People deserve sufficient energy resources of high quality                                                                                                         |
| Accessibility                    | All people, including the poor, should be able to purchase sufficient energy to secure universal enabling access <sup>5</sup>                                      |
| Due process                      | Countries should respect due process and human rights in their production and use of energy                                                                        |
| Transparency and accountability  | All people should have access to high quality information about energy and the environment, and fair, transparent, and accountable forms of energy decision-making |
| Sustainability                   | Energy resources should not be depleted too quickly                                                                                                                |
| Intragenerational equity         | All people have a right fairly to access energy services                                                                                                           |
| Intergenerational equity         | Future generations have a right to enjoy a good life undisturbed by the damage our energy systems inflict on the world today                                       |
| Responsibility (cosmopolitanism) | All nations have a responsibility to protect the natural environment and minimize energy-related threats                                                           |

54. If the Gas Bill is to align with international developments and trends, then these principles of energy justice should form the basis of national policy. Many of these principles are already either explicitly stated, or implicit, in the instruments of national energy policy, such as:

---

<sup>4</sup> B Sovacool & M H Dworkin 'Energy justice: Conceptual insights and practical applications' (2015) *Applied Energy* 142 435 – 444 437.

<sup>5</sup> See T Ledger & M Rampedi *Hungry for Electricity* (PARI, 2022); Monyei, C. *et al* 'Examining energy sufficiency and energy mobility in the global south through the energy justice framework' (2018) *Energy Policy* 119 68–76.

- 54.1. The White Paper on Energy Policy 1998 which has five key policy objectives: increasing access to affordable energy services, improving energy governance, stimulating economic development, managing energy-related environmental and health impacts and finally securing supply through diversity. The ERA repeats these objects.
- 54.2. The National Energy Act not only focus on energy security, but speaks to balancing between security of supply, economics, consumer protection and sustainable development.

*Enforcement Powers Are Stronger Than the Existing Act but Weaker Than the ERRA*

- 55. The Gas Bill introduces meaningful enforcement tools, including compliance notices, fines and criminal offences. These improvements should be welcomed.
- 56. However, the enforcement framework remains oriented primarily toward commercial and administrative non-compliance rather than urgent environmental harm.
- 57. The most notable omission is the absence of an expedited mechanism enabling urgent intervention where environmental damage, safety risks or serious public-interest concerns arise.
- 58. The ERRA contains stronger mechanisms for immediate intervention through court-based processes. The Gas Bill lacks an equivalent safeguard.
- 59. For infrastructure that may involve significant environmental, safety and public-health risks, a solely reactive enforcement regime may prove insufficient.
- 60. In terms of a recommendation, the committee should consider requiring of the Department discussion of the necessity of the following within the architecture of the Bill:
  - 60.1. Emergency suspension powers
  - 60.2. Urgent interim enforcement mechanisms
  - 60.3. Fast-track judicial remedies for serious environmental breaches
  - 60.4. Explicit authority to halt operations where significant environmental harm is threatened.

*Land, expropriation and Community Risk*

- 61. Section 33 of the Gas Bill authorizes the expropriation of land for the construction of gas facilities. However, such expropriation must align with the Expropriation Act 13 of 2024 and the constitutional principles and rights outlined in Section 25 of the Constitution, which emphasise that property can only be expropriated for a public purpose, or in the interest of the public and must be accompanied by just and equitable compensation.
- 62. A key concern is the potential imbalance of power faced by landowners, occupiers, informal settlers, and communities on communal land, who may lack the capacity to negotiate effectively or oppose expropriation that may be carried out through section 33 of the Gas Bill. This power imbalance stems from the colonialism and apartheid forms of land ownership that left traditional communities and communities holding informal and customary land rights with insecure tenure.
- 63. Specifically, section 25(6) of the Constitution provides that a person or community whose tenure of land is legally insecure because of past racially discriminatory laws or practices is entitled, to

the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.

64. This means that people's insecure, informal or living customary law rights to land are protected in the Constitution and that a person has secure tenure when they are legally and practically able to defend their ownership, occupation, use and access to land against interference from other people or institutions.
65. Therefore, relying solely on referral (per the opinion of the State Law Advisers) to the National House of Traditional and Khoi-San Leaders on the Bill since it deals with the expropriation of land and may impact land belonging to traditional communities and that the Bill pertains to customary law or the customs of traditional or Khoi-San communities as envisaged in the Traditional and Khoi-San Leadership Act 3 of 2019, does not guarantee meaningful protection or community participation.
66. Procedural compliance does not equate to obtaining genuine community consent or ensuring fair engagement. The Bill should incorporate clear community notification, inclusive engagement processes, and robust protection measures before any land is taken or burdened to host gas infrastructure, ensuring that communities are genuinely protected and their rights respected

#### *Legal Coherence and Internal Consistency*

67. Section 17 allows the Energy Regulator to grant exclusive distribution rights to a licensee. Section 18(1)(l) permits this exclusivity for a 'particular range of specifications of gas prescribed by the Minister'. The Competition Act 89 of 1998 prohibits certain exclusivity arrangements. Section 30(3) attempts to address this by requiring interpretation consistent with Competition Act section 9(1)(a), but the relationship between gas distribution exclusivity and the Competition Act's prohibition on excessive pricing and exclusionary conduct needs more explicit treatment. A licensee with a 25-year exclusive distribution right in a geographic area is in a position of substantial market power.
68. The Bill requires the Energy Regulator to consult with government departments (section 3(j)) and to enter into coordination agreements with other regulators (section 3(k)). This is good. But these are discretionary powers. There is no requirement for formal coordination protocols with the Department of Forestry, Fisheries and the Environment (DFFE) on EIA integration, or with the Department of Water and Sanitation (DWS) on NWA compliance, or with the Department of Mineral Resources and Energy on climate commitments. Mandating formal memoranda of understanding with these departments, with minimum content requirements, would turn the Bill's cooperative governance aspirations into operational reality.
69. Additionally, the Gas Bill speaks to facilitating development of gas-to-power, but lacks any content on what this facilitation looks like and the connection to the electricity system. Further, it makes no reference or connection to the pending draft Market Code, where gas would not economically be competitive compared to renewable energy. In comparative terms, an example of the role of gas being minimised due to competitive markets can be seen in Spain, with a

recently published reporting emphasising the positives of renewable energy and the weaker influence of gas on electricity pricing.<sup>6</sup>

*Issues the Bill Does not address at all*

70. Beyond the gaps in existing provisions, there are several issues that are entirely absent from the Bill and that will become operationally important as gas infrastructure develops. These will be discussed below

*The issue of Just Transition and Worker Rights:*

71. The Bill promotes gas industry development but contains nothing about what happens to workers when gas infrastructure is eventually decommissioned or when the energy transition makes certain gas assets uneconomical. Given South Africa's experience with coal mining community impacts, this is not a theoretical concern. A just transition framework — even a basic one requiring licence holders to develop workforce transition plans — would be appropriate.

*The issue of methane monitoring and reporting:*

72. Methane is a potent greenhouse gas. LNG infrastructure — including transportation, storage and distribution — is associated with methane leakage (fugitive emissions) that is not captured in standard CO<sub>2</sub> accounting. The Bill contains no methane monitoring or reporting requirement. South Africa is currently developing its greenhouse gas reporting framework under the Climate Change Act — the implementing regulations and sectoral targets are with DFFE and have not yet been enacted. That process makes this gap more urgent, not less. The gas sector's methane profile should be addressed in the Gas Bill now so that when those regulations land, the regulatory hooks are already in place.
73. We note that this is an area where some uncertainty exists — methane leakage rates vary significantly depending on infrastructure type and maintenance standards, and quantification methodologies are contested. Precisely because of that uncertainty, a monitoring and reporting requirement is more appropriate than a fixed emission standard at this stage. The Regulator should be empowered to develop methane monitoring rules over time.

*The issue of cumulative environmental impact:*

74. Neither the licensing process nor the gas master plan requires a cumulative environmental impact assessment. Individual gas facilities may each pass an EIA in isolation, but the aggregate effect of multiple facilities in a region on water, air, biodiversity and community health is not assessed anywhere in this regulatory framework. This is a known and documented limitation of project-by-project EIA processes. Strategic environmental assessment at the gas master plan level would address this.

---

<sup>6</sup> Dr Chris Rosslowe “Renewables shield Spanish consumers from elevated gas prices” (16 June 2026). Accessible at <https://ember-energy.org/app/uploads/2026/06/Report-PDF-Renewables-shield-Spanish-consumers-from-elevated-gas-prices.pdf>.

75. We recommend that section 27(5) be amended to require that the gas master plan be subject to a strategic environmental assessment (SEA) under NEMA's regulations on strategic environmental assessment.

*The issue of Gas infrastructure Safety Zones and Land Use:*

76. LNG terminals and high-pressure gas pipelines require safety exclusion zones. The Bill does not address how those zones interact with existing land use rights, housing development or agricultural land. In South Africa's context, where informal settlements can develop rapidly near industrial infrastructure, the absence of any mechanism for safety zone management is a concern. This is a land use planning issue that goes beyond the Bill's scope, but the Bill should at minimum create a hook to relevant municipal land use planning requirements.

*The Issue of climate change and LNG Lock In which results in stranded assets*

77. South Africa ratified the Paris Agreement. The Climate Change Act 22 of 2024 creates framework obligations on organs of state to act consistently with South Africa's climate commitments and to consider climate change impacts in decision-making. Readers should note that the Act's implementing regulations and sectoral emissions targets are currently under development by DFFE and have not yet been enacted. However, the Act's overarching duties apply to organs of state from the date of commencement.
78. The Energy Regulator, when issuing a licence for an LNG import terminal, is an organ of state performing a public function. The absence of any climate impact consideration in the Gas Bill's licensing process creates a tension with the Climate Change Act that is likely to attract legal challenge as those downstream regulations are finalised.
79. The lock-in problem is concrete. A licence to operate a gas transmission facility is valid for up to 25 years (section 19(1)(a)). A licence granted in 2027 runs to 2052. South Africa's NDC sets out a trajectory toward net-zero greenhouse gas emissions by 2050. The specific sectoral targets that will govern the gas sector under the Climate Change Act are not yet enacted — DFFE is actively developing these — but the directional commitment is clear and legally anchored at the framework level.
80. Infrastructure licensed under this Bill could, on current drafting, continue operating legally until after that target date, creating stranded asset risk for investors and continued emissions exposure for communities near the infrastructure. The absence of a transition mechanism in the Bill now will not become easier to address once those sectoral targets are set; it will become harder.
81. The above mentioned issue poses significant risks to vulnerable groups which include the following:
- 81.1. Communities near LNG terminals and pipeline corridors face air quality and health risks that will persist for the life of the infrastructure licence.
  - 81.2. Energy-poor households who become dependent on piped gas for cooking or heating during a transition period may face affordability and access disruption if the infrastructure becomes stranded or uneconomical.

- 81.3. Workers in the gas sector face transition risk if infrastructure is built that cannot operate economically under a decarbonised grid.

*Issues regarding water resources and ecological integrity*

82. Gas pipelines cross watercourses. LNG terminals require significant water use for cooling and regasification. Underground storage facilities can affect groundwater. Pipeline construction disrupts riverbanks and wetlands. None of this is addressed in the Gas Bill.
83. The National Water Act 36 of 1998 (NWA) requires a water use licence for activities that affect water resources, including storage of water, impeding or diverting flow, and activities that impact on a water resource. There is no cross-reference to the NWA anywhere in the Gas Bill. A developer applying for a gas facility licence could obtain that licence without the Regulator ever asking whether a water use licence is in place.
84. NEMA's Environmental Impact Assessment (EIA) regulations will apply to many gas infrastructure projects independently of the Gas Bill. But the Gas Bill's licensing process does not require an EIA to be completed before a licence is granted, nor does it require the licence conditions to incorporate EIA findings. This means the two regulatory tracks run in parallel with no formal integration mechanism.
85. The above mentioned issue poses significant risks to vulnerable groups which include the following:
- 85.1. Rural and peri-urban communities downstream of pipeline construction sites and storage facilities are most exposed to water contamination risk.
- 85.2. Agricultural communities dependent on groundwater or surface water near gas storage or LNG facilities have no explicit protection under this Bill.
- 85.3. Wetland-dependent livelihoods — fishing, subsistence farming — face unaddressed risk from pipeline construction.

*Issues regarding air quality and human health*

86. The National Environmental Management: Air Quality Act 39 of 2004 (NEMAQA) establishes listed activities that require atmospheric emission licences (AELs). LNG regasification and certain gas storage activities are or may be listed activities under NEMAQA. There is no cross-reference to NEMAQA in the Gas Bill, and no requirement that an AEL be obtained before a gas facility operation licence is granted.
87. This creates the same parallel-tracks problem as with the NWA. A gas operation licence could be granted and construction could commence before NEMAQA compliance is secured. If the AEL application is subsequently refused or granted with conditions that conflict with the gas licence conditions, the legal position of all parties — regulator, licensee, and affected communities — becomes complicated.
88. There is also the question of cumulative air quality impacts. A single LNG terminal may not, by itself, trigger air quality thresholds. But a cluster of gas infrastructure in an already industrialised

area — the Coega or Richards Bay industrial development zones, for example — could produce cumulative impacts that are not assessed under any single regulatory process.

89. The above mentioned issue poses significant risks to vulnerable groups which include the following:
- 89.1. Communities near LNG terminals and compressor stations face methane and VOC (volatile organic compound) exposure risks not addressed in the Bill.
  - 89.2. Workers on gas facilities have occupational health exposure risks. The Bill requires health and safety compliance by reference (section 12(3)(f)) but this is a licence application requirement, not an ongoing compliance condition with teeth.
  - 89.3. Children and elderly persons in communities near gas infrastructure are disproportionately affected by air quality degradation. The Bill's constitutional obligation under section 24 of the Constitution to protect the environment for the benefit of present and future generations is not operationalised in this dimension

*Issues regarding socio economic implications of gas development for communities*

90. The non-discrimination provision in section 30 covers 'customers' — people purchasing gas or gas services. People who are not yet customers, such as communities in areas where gas infrastructure is being proposed but not yet operational, have no protection under this provision. They are affected by the infrastructure but have no standing as customers.
91. There is no health impact assessment requirement anywhere in the Bill. This is particularly significant for LNG infrastructure in or near communities. LNG terminals are industrial facilities with safety exclusion zones. The Bill does not require that the human settlements nearest to proposed facilities be considered in the licence application process beyond the general NEMA reference.
92. The only reference to any type of community benefit, including compensation, is for the Gas Masterplan to include local content and community development. Clearer criteria for communities impacted need to be set or ensured, should it be through environmental impact assessments. Reference to local content plans are not sufficient with being less comprehensive than the already in place inadequate social and labour plans seen in the mining sector. For true benefit to communities, there needs to be ownership in projects with any harm done compensated and communities left in a better position than before the project. Further, the issuing of licensing should be based on this requirement being satisfied. This benefit sharing is necessary in line with the Constitution in Section 25(4)(a) which speaks to equitable access to natural resources. However, as mentioned throughout the submission and below, communities having meaningful consultation, the right to say no to projects, and complying with just energy transitions trajectories is of priority, with the reduction of gas usage and the uptake of renewable energy projects.
93. We also note the absence of any meaningful free, prior and informed consent (FPIC) framework. The Bill's consultation requirements for licence applications are procedural — publication, objection, response — rather than substantive. They do not require engagement with communities in a manner that is accessible, culturally appropriate, or genuinely participatory. This matters more for gas infrastructure than for many other types of energy infrastructure because of the safety, health and land-use implications.

94. The above mentioned issue poses significant risks to vulnerable groups which include the following:
- 94.1. Low-income communities near LNG terminals face safety and health risks without adequate procedural protection in the licensing process.
  - 94.2. Energy-poor households may be effectively excluded from access to gas services on commercial grounds, with no regulatory mechanism to address this beyond the broad objects in section 2.
  - 94.3. Traditional communities whose land may be crossed by gas pipelines have limited procedural protection under the Bill — the State Law Advisers note in the Bill's parliamentary memorandum that referral to the National House of Traditional and Khoi-San Leaders is required, but this is a parliamentary procedure, not a substantive community right embedded in the licensing process.

*The issue of emergency response and liability:*

95. The Bill's decommissioning requirements (section 18(1)(o) and section (34) address rehabilitation after a licence ends, but there is no provision for emergency response planning for gas infrastructure failures, leaks or explosions during the operational period. This is standard practice in comparable international gas regulatory frameworks. Emergency response planning should be a condition of operation licences for major gas facilities.
- 96.

*Areas of Strength that should Be Retained within the Bill*

97. Not all findings are negative. The Bill's dual-track system of licensing and registration is sensible, modern and broadly consistent with contemporary energy regulation. It provides regulatory flexibility while ensuring higher-risk activities remain subject to stricter oversight.
98. In terms of inspection powers, the inspection framework is balanced and constitutionally sound. Inspectors have meaningful powers, while protections for private dwellings appropriately safeguard constitutional rights. In this respect, the Bill broadly reflects good regulatory practice.
99. These abovementioned strengths should be preserved as the Bill moves through the legislative process.

*Overall assessment of the Bill*

100. Viewed as a whole, the Gas Bill succeeds in building a modern commercial and administrative framework for the gas sector. However, it does not yet provide a similarly modern framework for environmental governance, climate accountability and ecologically sustainable development.
101. The central policy concern is therefore one of balance. The Bill creates extensive mechanisms to facilitate gas market development, yet many of the safeguards necessary to manage the environmental, climate and social consequences of that development remain weak, indirect or entirely absent.

102. For Parliament's oversight role, the key question is not whether gas infrastructure should proceed. Rather, it is whether the legal framework governing that infrastructure adequately reflects South Africa's constitutional environmental obligations, climate commitments, water governance requirements and commitment to a just energy transition

Specific Comments:

| Relevant Provision                                                    | Proposed Comment / Concern                                                                                                                                                                                                     | Suggested Amendment                                                                                                                                                                                                                                                                                                                   | Rationale                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Section 7 – Information held and disclosed by Energy Regulator</b> | This section places an obligation on persons to access information which falls in public interest.                                                                                                                             | Information obtained by the Energy Regulator should all be publicly available, except falling within in a limitation as listed in the Promotion of Access to Information Act 2000 and Protection of Personal Information Act 2013. This is to enable the constitutional right to access to information to exercise or protect rights. | It is not possible for the general public to exercise or protects their <b>rights</b> on gas projects or activities which information is not made available, with a protection which is far too wide and in turn unjustly limits the Constitutional right of access to information. This is especially in light of the objects of the Act including equitable provision of gas transmission, storage, distribution, liquefaction and re gasification in the public interest. |
| <b>Section 11- Activities no longer requiring licensing</b>           | This section should specifically require that any exemption decision should be subject to public participation beforehand so as to not override necessary checks and balances by the general public and other statutory bodies | The Minister may, in consultation with the Energy Regulator, by regulation determine any activity contemplated in section 10(1) as an activity that no longer requires a licence, from the date set out in such determination                                                                                                         | NERSA should be a concurrent decision maker, it should not be within the exclusive power of the Minister to decide what activities no longer need a license. This may potentially impede NERSA's NERA Act functions as gas regulator                                                                                                                                                                                                                                         |
| <b>Section 12 –</b>                                                   | No inclusion is made of                                                                                                                                                                                                        | Section 2(f) the                                                                                                                                                                                                                                                                                                                      | Compliance with all                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

|                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                       |
|-----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Application for license</b>                      | a requirement for benefit sharing.                                                                                                                                                                                                                                                                                                                                                                                                                                                  | plans and ability of the applicant to comply with all applicable labour, health, safety, environmental and benefit sharing legislation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | relevant laws should be a requirement for a license.                                                                                                                                  |
| <b>Section 14- Objection to licence application</b> | Section 14 reflects a weak and largely reactive approach to public participation in licence applications. The standard for lodging an objection threshold is too onerous, as affected persons should not be required. One shouldn't have to prove that their rights are materially and adversely affected before they may participate. The Bill should instead provide reasonably meaningful public participation mechanisms for licence applications.in order to file an objection | <p>Amend s14(1) to broaden standing to mirror NEMA's "interested and affected party" language, while retaining the Regulator's ability to manage volume/frivolous objections through the rule-making power already in s37(e)</p> <p>"14. (1) A person whose rights may be materially and adversely affected, <b>or who is an interested or affected party <u>as contemplated in section 2 of the National Environmental Management Act, 1998, including any person acting in the public interest or on behalf of a group or class of persons unable to act in their own name,</u></b> may lodge an objection with the Energy Regulator in respect of a licence application contemplated in section 12,</p> | This would strengthen procedural fairness, improve transparency and ensure that affected communities can participate meaningfully before licensing and section 30 decisions are made. |

|                                           |                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                              |
|-------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                           |                                                                                                                                                                                                                                                                                                                                                  | following the publication of the information regarding the application in terms of section 13, within 30 days from the date of publication                                                                                                             |                                                                                                                                                                                                                                                              |
| <b>Section 21 (4)</b>                     | It must and not may be a requirement for surrender that rehabilitation of land and environment has taken place. It not, the state will need to recover these costs from the public, which has failed in the mining sector to date.                                                                                                               | <b>(4) The Energy Regulator must be provided proof of rehabilitation of land and environment to accept a surrender of a license in accordance with section 34.</b>                                                                                     | This is to ensure that rehabilitation is done before any entity is entitled to surrender.                                                                                                                                                                    |
| <b>Section 22 – revocation of license</b> | Revocation of a license cannot happen without the requirement that rehabilitation and any outstanding financial obligations have taken place.                                                                                                                                                                                                    | <b>New section The Energy Regulator cannot revoke a license until rehabilitation of land and environment has taken place in accordance with section 34.</b>                                                                                            | This is to ensure companies/groups of companies are not able to evade liability. In addition, that a gas activity or project is not left in a state of being abandoned with no rehabilitation taking place.                                                  |
| <b>Section 27(5) - Gas Master Plan</b>    | The Bill does not require the Gas Master Plan to assess compatibility with South Africa's climate commitments, Nationally Determined Contribution (NDC), or obligations arising from the Climate Change Act, 2024. This creates a risk that long-term gas infrastructure planning may be inconsistent with national decarbonisation commitments. | <b>Insert new section 27(5)(l):</b><br>"An assessment of the consistency of the gas master plan with South Africa's Nationally Determined Contribution submitted under the Paris Agreement and the framework obligations established under the Climate | Ensures climate considerations are integrated into strategic gas planning from the outset. Promotes coherence between energy planning, climate policy and future emissions reduction obligations, while reducing regulatory uncertainty and litigation risk. |

|                                                                       |                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                        |
|-----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                       |                                                                                                                                                                                                         | Change Act, 2024, including any applicable sectoral emissions targets, and an analysis of projected lifecycle greenhouse gas emissions associated with the gas infrastructure contemplated in the plan."                                                                                                         |                                                                                                                                                                                                                        |
| <b>Section 28 - Ministerial Determinations for New Gas Facilities</b> | Ministerial determinations for new gas facilities are not required to assess climate impacts or consistency with national climate obligations.                                                          | <b>Insert new section 28(1)(c):</b> "Assess whether the proposed new gas facility or gas supply is consistent with South Africa's obligations under the Climate Change Act, 2024, and confirm that the determination accounts for projected greenhouse-gas emissions over the operational life of the facility." | Ensures that decisions authorising new gas infrastructure consider long-term climate implications and avoid locking South Africa into emissions-intensive infrastructure inconsistent with future climate obligations. |
| <b>Section 19(1)(a) - Duration of Licences</b>                        | Operation licences of up to 25 years may facilitate long-term fossil fuel lock-in, particularly for LNG infrastructure whose operational lifespan may extend beyond South Africa's net-zero trajectory. | Amend section 19(1)(a) to provide for differentiated licence periods for LNG facilities and require review mechanisms linked to climate transition objectives and decommissioning pathways.                                                                                                                      | Reduces stranded asset risk, supports orderly transition planning and ensures long-term infrastructure remains responsive to evolving climate commitments and energy planning frameworks.                              |
| <b>Section 18 -</b>                                                   | The Bill does not require                                                                                                                                                                               | Require licence                                                                                                                                                                                                                                                                                                  | Provides certainty for                                                                                                                                                                                                 |

|                                                                         |                                                                                                                                           |                                                                                                                                                                                                                                       |                                                                                                                                                                    |
|-------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Licence Conditions (Climate Transition)</b>                          | LNG facilities to prepare transition or decommissioning plans linked to climate objectives.                                               | conditions for LNG infrastructure to include decommissioning, transition and carbon-management plans demonstrating consistency with South Africa's emissions reduction trajectory.                                                    | investors, regulators and communities while supporting a managed energy transition rather than indefinite fossil fuel dependence.                                  |
| <b>Section 10-26 Licensing Framework</b>                                | The same licensing framework applies to both fossil gas infrastructure and low-carbon or renewable gases such as hydrogen and biomethane. | Create a differentiated licensing pathway for renewable infrastructure, including streamlined regulatory requirements where appropriate.                                                                                              | Encourages investment in cleaner technologies and aligns the regulatory framework with South Africa's long-term energy transition objectives.                      |
| <b>Section 12(3)(h) - Information Required for Licence Applications</b> | Applicants are not required to demonstrate compliance with the National Water Act before obtaining a gas facility licence.                | Amend section 12(3)(h) to require applicants to provide evidence that they have obtained or applied for all relevant authorisations under the National Water Act, 1998, and NEMA, or explain why such authorisations are unnecessary. | Promotes regulatory integration and ensures that gas licences are not granted without consideration of water resource impacts.                                     |
| <b>Section 18(1)(w) - Environmental Licence Conditions</b>              | Existing wording references NEMA but makes no reference to water-use authorisations issued under the National Water Act.                  | Amend section 18(1)(w) to require consistency with all applicable water-use licences, permits and authorisations                                                                                                                      | Ensures that water resource protection measures become enforceable through the Gas Bill licensing framework without duplicating the authority of water regulators. |

|                                                                        |                                                                                                                                              |                                                                                                                                                          |                                                                                                                                                                                     |
|------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                        |                                                                                                                                              | issued under the National Water Act and to incorporate related conditions into gas licences.                                                             |                                                                                                                                                                                     |
| <b>Section 18(1)(w) - Air Quality Compliance</b>                       | The Bill lacks an explicit link to the National Environmental Management: Air Quality Act (NEMAQA) and Atmospheric Emission Licences (AELs). | Insert additional wording requiring compliance with all applicable Atmospheric Emission Licences and incorporation of AEL conditions into gas licences.  | Prevents conflicts between licensing regimes and ensures that air quality obligations remain enforceable throughout the life of a gas facility.                                     |
| <b>Section 12(3) - Licence Application Requirements</b>                | No requirement exists for applicants to demonstrate compliance with NEMAQA where listed activities require an Atmospheric Emission Licence.  | Require applicants to submit evidence of applicable NEMAQA authorisations or pending applications before operational approval is granted.                | Improves coordination between regulatory processes and reduces legal uncertainty where approvals are issued by different competent authorities.                                     |
| <b>Section 13(1) - Publication of Licence Applications</b>             | The Bill leaves publication requirements to regulator rules and does not guarantee accessible public participation.                          | Amend section 13(1) to require publication of licence applications in at least two official languages and through both national and local media outlets. | Improves transparency, access to information and participation by affected communities, particularly rural and marginalised communities.                                            |
| <b>Section 12(3) [New Section 12(3)(i)] - Health Impact Assessment</b> | The Bill contains no mechanism to assess direct human health impacts associated with large gas infrastructure projects.                      | Insert a new section 12(3)(i) requiring health and safety screening assessments for major gas transmission, storage and regasification facilities.       | Provides an early mechanism for identifying health risks to nearby communities and supports the constitutional right to an environment that is not harmful to health and wellbeing. |
| <b>Section 30 - Non-</b>                                               | Protection against discrimination is limited                                                                                                 | Amend section 30 to extend                                                                                                                               | Broadens protection for vulnerable and energy-                                                                                                                                      |

|                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|---------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Discrimination</b>                                         | to existing commercial customers and does not extend to affected communities or prospective customers.                                                                                                                                                                                                                                                                                                             | protection to prospective consumer customers and communities affected by proposed gas infrastructure.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | poor communities and strengthens principles of environmental justice and equitable access.                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Section 34(3) - Environment and rehabilitation of land</b> | The rehabilitation duty in s34(3) is textually triggered only by three defined <i>exit events</i> — surrender, revocation, cancellation. It is not framed as a continuous, standing obligation that exists throughout the licence term (contrast with the general principle in s34(1)–(2), which purports to apply NEMA principles "to all decisions and actions taken under this Act. This creates a genuine gap. | <p>Tighten s34(3) to confirm the rehabilitation duty is continuous, not merely triggered at exit:</p> <p><b><u>“(3) A licensee or registrant has an ongoing duty, throughout the term of its licence or registration, to prevent, minimise and remedy environmental harm arising from its licensed or registered activities. Without</u></b></p> <p>derogating from sections 21, 22 and 26, a licensee who surrenders a licence... must comply with the applicable laws relating to the environment, including damage to and pollution of the environment and the rehabilitation of lan</p> | These changes close the gap between the Bill's aspirational NEMA-principles framing (s34(1)–(2)) and its operative mechanics (s18, s34(3)), converting a discretionary, exit-triggered rehabilitation duty into a standing obligation. This is consistent with the constitutional s24(b) duty to secure ecologically sustainable development and use of natural resources, and with the "polluter pays" and prevention principles under NEMA s2, without requiring wholesale restructuring of Chapter 3 or Chapter 5. |
| <b>Section 37 - Rule-Making Powers</b>                        | The Bill does not address methane monitoring, reporting or management of fugitive                                                                                                                                                                                                                                                                                                                                  | Insert a new rule-making power authorising the Energy Regulator                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Methane emissions are a significant climate risk associated with gas infrastructure. Regulatory                                                                                                                                                                                                                                                                                                                                                                                                                       |

|                                                            |                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                         |
|------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
|                                                            | emissions.                                                                                                                                                        | to prescribe requirements for methane monitoring, measurement, reporting and disclosure.                                                                                                                                                                                                                                                               | oversight is necessary to support transparency, accountability and emissions management.                                                |
|                                                            | The Bill does not provide for rules by the Energy Regulator on benefit sharing for clarity.                                                                       | Insert a new rule-making power for benefit sharing of interested and affected parties.                                                                                                                                                                                                                                                                 | This is to ensure certainty in requirements and licensing.                                                                              |
| <b>Section 27(5) - Strategic Planning</b>                  | No requirement exists for strategic environmental assessment (SEA) of the Gas Master Plan.                                                                        | Insert a new provision requiring the Gas Master Plan to undergo a mandatory Strategic Environmental Assessment in accordance with NEMA processes.                                                                                                                                                                                                      | Enables assessment of cumulative and regional environmental impacts that may not be adequately addressed through project-specific EIAs. |
| <b>Sections 12, 13 and Related Consultation Provisions</b> | Consultation requirements are largely procedural and do not provide meaningful mechanisms for participation by indigenous, traditional or vulnerable communities. | Strengthen public participation requirements through culturally appropriate consultation procedures, accessible engagement processes and enhanced notice requirements for affected communities. This must include making express provision for the application documents to be made available on the project proponents website and on NERSA's website | Improves environmental justice outcomes, reduces conflict and strengthens the social legitimacy of gas infrastructure development.      |
| <b>Section 39 - exemptions</b>                             | All decisions made, including exemptions must follow fair                                                                                                         | New section Before promulgating a                                                                                                                                                                                                                                                                                                                      | This is to ensure compliance with all relevant constitutional,                                                                          |

|                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                  |
|-----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                 | <p>administrative justice. The discretion to issue exemptions with no consultation or process, will led to centralised decision making with no accountability.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>proposed exemption, the Minister must (a) consult with the Energy Regulator (b) invite public comments on the exemption (c) duly consider the comments from the Energy Regulator and public.</p>                                                                                                                                                                                                                                                                                      | <p>legal and policy framework for decisions to be made by state, including checks and balances of authority.</p>                                                                                                                                                                                                                 |
| <p><b>Section 29 - Strategic integrated energy projects</b></p> | <p>s29(1) inherits <i>all</i> the procedural features of s28 by cross-reference, including s28's weak environmental trigger: s28(1) only requires the Minister to act "having regard to the gas master plan" — not to conduct or require a NEMA environmental impact assessment, and not to consult DFFE. The word "having regard to" is a low bar; it does not require alignment with, still less compliance with, environmental planning instruments.</p> <p>There is also no public participation mechanism attached to s28/s29 determinations at all — unlike the licensing chapter (Chapter 3), which at least has s13–14 notice-and-objection. A "strategic integrated energy project" could in principle be established, and its site, scale and interconnected infrastructure defined, without any equivalent public engagement step, before licensing (which</p> | <p>29. (1) A determination contemplated in section 28 may also provide for the establishment of an integrated energy project... <u>provided that no such determination may be made unless the Minister has published notice of the proposed determination in the Gazette and invited public comment for a period of not less than 30 days, and has had regard to any applicable environmental authorisation requirements under the National Environmental Management Act, 1998.</u>"</p> | <p>This inserts a public-comment gate and an explicit (not merely aspirational) NEMA cross-reference at the one point — the determination — where project scope and site are effectively fixed, without disturbing the substantive procurement/infrastructure mechanics of s28/s29 or requiring amendment to the IDA itself.</p> |

|                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                           |
|--------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                  | <p>triggers s13–14) even begins. Because s29 projects can bundle "other interconnected or related energy infrastructure" (undefined scope) with gas facilities, and because the IDA's coordinating function is designed for speed, there's a real risk that the <i>cumulative</i> footprint of a strategic project (e.g., an LNG import terminal plus associated pipeline plus power infrastructure) is decided as a package before affected communities have a structured opportunity to comment on the project as a whole, rather than piecemeal at each downstream licensing stage.</p> |                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                           |
| <p><b>Section 33 - Expropriation of land</b></p> | <p>s33 contains no procedural safeguard of its own — no notice requirement, no consultation-with-affected-parties requirement, no reference to prior engagement with landowners, occupiers, or traditional communities. It defers entirely to the Expropriation Act, 2024 for process.</p> <p>s33's operative text contains no cross-reference to that consultation obligation, no reference to the Interim Protection of Informal Land Rights</p>                                                                                                                                         | <p><u>33. The Minister, in consultation with the Minister responsible for the administration of the Expropriation Act, 2024..., may expropriate land or any right in, over or in respect of land, for any gas facilities for a public purpose or in the interest of the public, in terms of section 25 of the Constitution and the Expropriation Act, 2024**, and, where the land in question is</u></p> | <p>This converts an obligation the drafters already acknowledge exists (per their own Memorandum) into binding operative text, closing the gap between stated intent and enacted duty</p> |

|                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                  | <p>Act (IPILRA) considerations, and no reference to free, prior and informed engagement with affected traditional communities specifically.</p>                                                                                                                                                                                                                                                                                                                                                                                                                              | <p><u>communal land or is subject to any right recognised under the Interim Protection of Informal Land Rights Act, 1996, or falls within the area of a traditional community, the Minister must first consult the National House of Traditional and Khoi-San Leaders and the affected community in accordance with section 39(1)(a)(i) of the Traditional and Khoi-San Leadership Act, 2019</u></p>                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p><b>Section 35 - Rights of licensee in respect of premises or land belonging to others</b></p> | <p>s35 is textually confined to "any street or road" — a defined, municipally-controlled category of land. It provides a workable consultation-and-supervision mechanism <i>for that category only</i>. It does not address the more common real-world scenario for gas transmission/distribution infrastructure: pipeline routes crossing <b>privately owned land, farmland, or communal/traditional land that is not a street or road</b>.</p> <p>For that land, the Bill offers only two routes — private negotiation (not addressed anywhere in the Bill) or the s33</p> | <p>Insert a new s35(1A): "Where a licensee requires access to lay, construct, repair, alter or remove pipes on land other than a street or road contemplated in subsection (1), the licensee must, prior to accessing such land, provide written notice to the owner or lawful occupier of the land, negotiate access and compensation for any loss or damage in good faith, and, failing agreement, may apply to the Energy Regulator</p> | <p>This closes the gap for the (numerically larger) category of non-road land without disturbing the existing municipal mechanism in s35(1)–(7), and without requiring the Minister to resort to full expropriation for routine servitude access — it gives landowners a notice-and-negotiation right proportionate to a servitude (rather than a full taking), reserving s33 expropriation for cases where negotiation genuinely fails. It also gives the Energy Regulator, which already has dispute-resolution functions under s8, a natural forum for this rather than creating a new institution.</p> |

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                 |  |
|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|--|
|  | <p>expropriation power (which, as analysed above, currently lacks its own consultation safeguard in the operative text).</p> <p>This creates a structural gap: a landowner or community whose land lies on a pipeline route, but who is not dealing with a municipality, has <i>no</i> statutory consultation, notice, or route-approval right analogous to what s35(3)–(4) gives municipalities.</p> <p>Landowners and communities outside the municipal-road-reserve category — which will include most agricultural and communal land traversed by transmission or distribution pipelines — currently have the weakest procedural position in the entire Bill: no notice right, no route-approval right, no guaranteed compensation mechanism for temporary or permanent servitude, unless and until the Minister invokes s33 expropriation</p> | <p>for a determination of reasonable terms of access and compensation, or the Minister may proceed in terms of section 33."</p> |  |
|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|--|

## CONCLUDING RECOMMENDATIONS AND REMARKS

103. Natural Justice welcomes the attempt to modernise South Africa's gas regulatory framework and acknowledges the Bill's improvements in relation to licensing, registration, inspection and enforcement. However, the Bill should not be advanced as a primarily commercial and infrastructure-enabling instrument without equally strong safeguards for environmental

governance, climate accountability, water protection, public participation, land rights and community benefit.

104. The central recommendation is that the Bill be revised so that climate, environmental and community safeguards are embedded directly into the gas regulatory framework, rather than being left to parallel statutory processes. This requires explicit alignment with the Constitution, NEMA, the National Water Act, NEMAQA, the Climate Change Act, South Africa's NDC and the principles of a just energy transition.
105. In particular, Parliament should require the Department to address the following before the Bill is finalised:
1. Insert climate compatibility requirements for the Gas Master Plan, ministerial determinations and major gas infrastructure licences, including lifecycle greenhouse-gas assessment, methane monitoring and alignment with the Climate Change Act and South Africa's emissions trajectory.
  2. Strengthen the Energy Regulator's powers and duties to impose environmental, water, air quality, rehabilitation, decommissioning, emergency response and transition-related licence conditions.
  3. Require strategic environmental assessment of the Gas Master Plan and formal coordination with DFFE, DWS and other relevant organs of state to avoid fragmented decision-making.
  4. Prescribe meaningful public participation requirements for licence applications, exemptions, strategic integrated energy projects and section 30 decisions, including accessible notice, multilingual disclosure, local-level engagement and broader standing for interested and affected parties.
  5. Protect land rights, informal and customary tenure, and community participation before any land is burdened, accessed or expropriated for gas infrastructure.
  6. Institutionalise community and household access, energy justice and benefit-sharing obligations as core principles of the Bill, including clear licence conditions for affected communities and prospective consumers.
  7. Ensure that long-term gas infrastructure decisions do not create unmanaged fossil-fuel lock-in, stranded asset risk or inconsistency with power-sector reforms, including the emerging South African Wholesale Electricity Market.
106. Natural Justice's position is not that regulation of the gas sector is unnecessary. Rather, if gas infrastructure is to be regulated, licensed and developed, it must be governed by a framework that is constitutionally coherent, climate-compatible, transparent, participatory and protective of communities and ecosystems. The Bill should therefore be amended so that any role gas may play in South Africa's energy system remains limited, accountable, transition-aligned and subject to robust public-interest safeguards.