

APA Ref: 170406_LO_Draft SEPP Education

6th April 2017

Director, Industry and Infrastructure Policy
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Director,

RE: Submission on the Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

Thank you for opportunity to review and provide comment on the *Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (the draft SEPP)*. APA Group (APA) takes great interest in the New South Wales (NSW) planning system, and strategic documents, as they have key implications for the way APA maintains and operates its high pressure gas transmission pipelines (HPGTPs).

A key issue is that, like other critical infrastructure, HPGTPs should be clearly identified (in both mapping and policy intent) in the highest level planning documents and subsequently in more detailed planning documents. As planning documents become more detailed, greater guidance, and more specific controls should be included in relation to HPGTPs. APA seeks planning policy and strategic planning support to ensure the operation of HPGTP's does not impact the safety of surrounding development, and new development is prevented from:

- being subject to hazards and emissions from existing and planned pipeline uses and activities, and
- adversely affecting the effective and efficient operation of existing pipelines and activities.

In particular, APA seeks to limit defined Sensitive Uses from establishing within the pipeline Measurement Length (the heat radiation zone associated with a full-bore pipeline rupture). All types of educational facilities and child care centres are considered Sensitive Uses and therefore APA has a specific interest in the *draft SEPP*. A key issue for community safety around HPGTPs is that planning systems allow Sensitive Uses to be established without the need for local government approval. This results in the pipeline licensee having no oversight over the change in use occurring proximate to the pipeline and the subsequent need to consider the changing risk profile of the pipeline and its associated Measurement Length that Sensitive Uses incur. Sensitive Uses are uses considered to be at greater risk in the event of a pipeline failure event and therefore should be located away from HPGTP's. APA is aware of a number of instances throughout Australia where schools (and other exempt sensitive land uses) are being proposed within the Measurement Length of HPGTP's placing those occupants (in this case children) at greater risk. We wish to work with the Department of Environment and Planning and the Department of Education to minimise risk to children in our communities by ensuring these uses are located away from the HPGTP network.

This submission contains two parts. First background information on APA, and our obligations in managing and operating HPGTPs. This background is important to understand in relation to the submissions we are making. The second part contains specific submissions in relation to elements of the draft SEPP.

1 Background to APA and HPGTPs

About APA

APA is Australia's largest natural gas infrastructure business and has direct management and operational control over its assets and investments. APA's gas transmission pipelines span across Australia, delivering approximately half of the nation's gas usage. APA owns and operates over 15,000 km's of HPGTPs across Australia. These pipelines plays an important role in:

- supplying energy needs to residential customers;
- supplying power generators; and
- providing energy needs to business and industry, and thereby supporting economic activity in New South Wales.

APA's statutory obligations

As a licence holder for high pressure gas transmission pipelines APA has statutory obligations under the *Pipelines Act 1967 (the Act)*. The *Pipelines Regulation 2013* states a licensee must ensure the design, construction, operation and maintenance is in accordance with Australian Standards 2885 (AS2885).

The *State Environmental Planning Policy (Infrastructure) 2007* includes Clause 55 'Development adjacent to corridor' in Division 9, which states:

(1) Before determining an application (or any application for modification of a consent) for development adjacent to a gas pipeline corridor, the consent authority must:

- (a) be satisfied that the potential safety risks or risks to the integrity of the pipeline that are associated with the development or modification to which the application relates have been identified, and*
- (b) take those risks into consideration.*

In considering a development proposal or land use change APA is obligated to ensure its pipelines are not damaged, nor subject to development which may increase the future risk of damage. Furthermore, APA must ensure the pipeline is designed to "reflect the threats to pipeline integrity, and risks to people, property and the environment" (AS2885, s4.3.1). Location classes are used to determine the appropriate pipeline design and management for the circumstances. If the location class changes a Safety Management Study is required to assess the additional risk and ensure the risk is reduced to an acceptable level.

Under AS2885, APA is not only responsible for activities or development on its easements, or land which includes an easement in favour of APA. APA has responsibilities for managing the risks associated with land use well outside of the pipeline easements. This includes both increased risk of physical damage to the pipeline from development and ongoing land use activities, as well as the risk to surrounding development from a loss of containment. The two risks are related, with measures to protect the integrity of the pipeline also reducing risk to surrounding people and development. These issues are explained in more detail below under the heading 'Measurement Length (ML) and Safety'.

APA's role

When considering land use and development proximate to HPGTP's and associated infrastructure, APA must consider safety as a key priority.

APA has a number of responsibilities and duties to perform under a complex framework of legislation, standards and controls across Federal, State and Local Government landscapes. In discharging these duties, APA needs to continuously review what is happening around its assets, what land use changes are occurring and what development is taking place, to ensure it remains in a position to comply with applicable operational and safety standards and legislation whilst meeting its commercial obligations and imperatives. APA considers there is currently a planning policy gap which allows Sensitive Uses to be approved without the proper consideration of HPGTP safety. While the SEPP (Infrastructure) results in Council referrals to APA, these are inconsistent and often do not consider development within the ML. Compounding these issues is the prospect of Sensitive Uses such as schools and child care centres establishing within the ML as exempt development. This further limits the opportunity for proper consideration of HPGTP safety, and for APA to fulfil its statutory obligations.

In order to maintain pipeline safety, it is essential APA is directly consulted on proposed land use changes in areas potentially affected by a pipeline failure so the risk profile of the pipeline and its changing surrounding environment can be reviewed and plans to control new threats and consequences can be developed and implemented. These measures can be costly and require substantial forward planning. Therefore, it is in the interests of the plan makers and development proponents to communicate with the pipeline operator as early as possible in the planning process. The earlier that notice of planning proposals affecting APA's pipelines is provided to APA, the better the information available to address public safety and the better equipped planners and APA will be to design efficient and effective outcomes, including ensuring safety near transmission pipelines both during development and after public settlement in the new areas.

In addition to the consideration of safety, APA has a legal responsibility, and commercial and social imperative, to provide a continuous flow of gas to service a number of end users, including business and industry critical to the NSW economy. APA therefore has a responsibility to ensure pipeline corridors can be utilised for future growth either by pipeline duplication or augmentation. For this reason it is critical that pipeline corridors are protected from the encroachment of land use, and development that may inhibit the ability to respond to increased market needs over time.

Measurement Length (ML) and Safety

In managing HPGTP's and considering land use changes APA must focus on that area geographically defined by the ML. The ML area is the heat radiation zone in the event of a full-bore pipeline rupture. APA is mandated to consider community safety in the ML due to the high consequences of pipeline rupture to life, property and the economy. The ML is determined by:

- design criteria of the pipe (driven by the environment within which it was designed for at the time of construction), and
- Maximum Allowable Operating Pressure (MAOP) of the pipe.

The ML can range anywhere from 150m to 600m on each side of the pipeline.

AS2885 requires APA to consider community and operational safety aspects in the event of a change in land use or significant increase in population density within the ML of the pipeline. This consideration is typically addressed through a Safety Management Study (SMS). Where an SMS is required, we strongly recommend that Council, the proponent and APA coordinate to undertake this process so future land use and construction within the ML can be undertaken taking account of any identified safety considerations and in compliance with AS2885 and APA pipeline licence statutory obligations.

Sensitive Uses

AS2885 requires APA to specifically consider Sensitive Uses in the operation and management of its pipelines. Sensitive Uses are where “the consequences of a failure may be increased because it is developed for use by sectors of the community who may be unable to protect themselves from the consequences of a pipeline failure” (AS2885, Part 1, s4.3.5). AS2885 acknowledges that Sensitive Uses are defined in some jurisdictions, however cites schools, hospitals, aged care facilities and prisons. APA recommends that the following defined uses (or group terms including all associated uses) should be considered Sensitive Uses and excluded from the ML:

- child care centre,
- correctional centre,
- educational establishment,
- entertainment facility
- function centre,
- highway service centre,
- home based child care
- hospital
- hotel or motel accommodation
- medical centre
- places of public worship
- respite day care centre
- retail premises
- seniors housing
- service station
- theatre.

Any proposal for these uses within the ML should also trigger referral to the gas pipeline licensee under the SEPP (Infrastructure).

Australian Pipeline Database

State and local government can access pipeline information via the Australian Pipelines and Gas Association which maintain an online mapping database from which data can be exported as an ESRI Shapefile or Google KML file.

This includes the location and measurement length for all APA transmission pipelines as well as other pipelines. Registration is available at <https://maps.landpartners.com.au/apd/APGALogin.aspx>.

2 Submission Specifics

Concept of SEPP

APA supports the concept of creating the *draft SEPP* dealing with all educational and child care facilities in a single consolidated policy, supporting appropriate development of this vital social infrastructure. However, this also provides an opportunity to ensure that all these Sensitive Uses are appropriately located outside of the ML of HPGTPs. It also provides the opportunity to ensure that existing facilities located within the ML are not subject to significant expansion or additional complementary uses, which would increase existing risk.

Supporting demand for child care and education

APA supports the need to provide investment in quality child care and education, which is necessary for youth development, future life opportunities, and economic development. However, this focus, and the desire to simplify the approval process, needs to be carefully balanced with safe site location. It is important to note that the focus of the SEPP is on high quality infrastructure that is “appropriately located”. However, the reduced levels of assessment proposed in the SEPP undermine the ability to ensure suitable locations outside of HPGTP MLs are developed.

This is particularly important because schools are a significant investment and once established remain in place for a long time. Furthermore, once schools are established they are often the focus of complementary development such as child care centres, before and after school care, halls which are commonly used for community purposes, expansion of capacity, and training /tertiary facilities. APA acknowledges the inherent efficiencies in co-locating educational establishment, and expanding existing facilities. However, in many cases the risks from HPGTPs were not appropriately considered in the past, and additional concentration of Sensitive Uses is not considered appropriate.

It is therefore critical to ensure the correct oversight and planning processes are in place to preserve community safety for these vital Sensitive Uses. It is important to note that the additional oversight APA is proposing would only apply in a very small proportion of planned educational/child care development, and as such provides significant benefit for very limited additional approval requirements. The process would be further simplified if development proponents were made aware of pipeline and ML location through planning maps, and engaged early with pipeline licensees.

Healthy environments – industrial zones

The *draft SEPP* does have controls to limit location of educational facilities where subject to ongoing environmental factors, such as noise or emissions. However, the draft SEPP does not have appropriate regard for safety risk from existing infrastructure, where the likelihood of an event is low but the consequence is very high (such as HPGTPs).

The focus is on additional controls relating to Light Industrial zoned land, however no consideration is given to risks associated with HPGTPs which are a use which occurs in a broad range of zones including residential. As detailed below the SEPP should ensure that the pipeline ML is used to trigger assessment and ensure appropriate public safety oversight.

State Significant Development

It is proposed to classify all new schools (regardless of capital investment), and expansion of schools having a capital value of \$20 million or more, as State significant development. Such development would be assessed and determined by the Minister for Planning. While considered appropriate to classify such development as State significant, planning policy must ensure that the assessment process requires input from the licensee of any HPGTP where the proposal is within the pipeline ML. This is necessary to ensure the ongoing safety of schools.

However, under current planning policy there is no guarantee this would occur. While such proposals provide the opportunity for public comment, this requires APA to actively monitor all Major Project Assessments, which is difficult given the geographic scope of our operations. Also, waiting until public notification periods to seek input severely limits the opportunity to make significant changes to the development proposal, especially where the site location itself is an issue.

Ideally any major proposals would consider such issues well before any approval process is initiated or any land acquisition decisions are made. APA encourages early engagement from development proponents to ensure that issues associated with development within pipeline MLs are understood and

can be addressed at the site selection phase, avoiding significant issues later in the process. This would include at due diligence stage of potential land acquisition for future school sites.

Development as Exempt or Complying

The draft SEPP proposes to make a range of child care either exempt or complying development. The draft SEPP also provides for a range of new school buildings, up to four storeys high to be complying development. This height of development allows for significant increases in density as complying development. This is considered inappropriate as it allows development to occur without considering the requirements of AS2885. This issue could be addressed by limiting the extent of development allowed as exempt or complying. It is suggested this be done by qualifying the list of Exempt and Complying development to exclude certain development inside of a pipeline ML. The following sections are proposed in the *draft SEPP* followed by our suggested qualification.

26 Emergency relocation of early childhood education and care facility—exempt development

Recommended to add

- S26 (2), c The development must:
not be within the measure length (as defined by AS2885) of a high pressure gas transmission pipeline

32 Existing schools – exempt development

Recommended to add

- S32 (4) Exempt development in relation to clause (i) for child care or community purposes must not be within the measure length (as defined by AS2885) of a high pressure gas transmission pipeline

33 Existing schools – complying development

Recommended to add

- S32 (4) Exempt development for clauses (viii), (ix), (x), and (xi) must not be within the measure length (as defined by AS2885) of a high pressure gas transmission pipeline

34 School-based child care – complying development

Recommended to add

- S34 (2), (f) the development must not be within the measure length (as defined by AS2885) of a high pressure gas transmission pipeline

43 Existing universities– complying development

Recommended to add

- S43 (1), (a)(iii) other than land within the measure length (as defined by AS2885) of a high pressure gas transmission pipeline for

This would allow most development to proceed as exempt or complying (including all minor works and works that do not increase capacity), except in the limited circumstances where the location was

subject to increased risk from a HPGTP. Currently a proponent could make an application for local development, which requires addressing the *State Environmental Planning Policy (Infrastructure) 2007* (Division 9, Clause 55 'Development adjacent to corridor').

While AS2885 does not prohibit Sensitive Uses within the ML, it does require a SMS to demonstrate that the risk level is acceptable and to identify a risk management response which could include a range of measures. However, APA takes the view that all Sensitive Uses should be kept out of the ML and recommends that appropriate land use planning policy support this position. Please see our submission on the *SEPP (Infrastructure) 2007* for further details.

We would be pleased to meet with the Department to discuss this submission and provide clarifications around the issue of land use planning and development around HPGTP's if it would be of benefit to you.

Please contact Ross Larsen on 07 3223 3382 or planningnsw@apa.com.au should you wish to discuss the contents of this correspondence.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'P. McCutcheon', with a stylized, looped flourish at the end.

Phillip McCutcheon
Urban Planning Manager
Infrastructure Planning and Protection

cc: New South Wales Department of Education