



APA Ref: 170406\_LO\_Draft SEPP Infrastructure

6<sup>th</sup> 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 (Infrastructure) Amendment (Review) 2016**

Thank you for opportunity to review and provide comment on the *Draft State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016 (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).

This submission contains two parts. First is 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
- 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* currently 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.*

This clause is a very important part of the NSW planning framework for APA and other gas pipeline licensees. This clause currently provides the basis for referral of applications to HPGTP licensees, and supports us in addressing our statutory obligations to maintain:

- community safety
- integrity of the pipeline
- effective operation of the pipeline.

However, while this clause is important it has significant limitations, which should be addressed through amendments to the NSW planning policy framework (see Part 2).

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 pipeline 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 development approval 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 health services, schools, and correctional centres establishing within the ML without local development approval. 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. Only in this way can the risk profile of the pipeline and its changing surrounding environment 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. Therefore, it is critical to protect pipeline corridors 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. This is significantly more than the 20m for listed pipelines in the current SEPP.

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. Typically, this is 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 car 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, allowing data export 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>.

### **Summary of current issues**

Currently the role of HPGTP licence holders in the New South Wales planning process is limited, making it more difficult to discharge statutory obligations. It appears the issues and obligations associated with HPGTPs are generally not well understood by the planning and development communities. This results in the inconsistent and sub-optimal consideration of HPGTPs in strategic planning and the development assessment process. This in turn has the potential to delay development application approval processes, and compromise safety within MLs. Specifically, the following issues are occurring:

- There are generally very few planning controls in relation to HPGTPs which limits the effectiveness of APA discharging its statutory obligations.
- There are no consistent and clear planning controls for acceptable development outcomes, which results in uncertainty, approval delays, and poor outcomes.
- There is no recognition of the ML constraint within strategic plans, planning policy, or local controls, undermining the critical consideration of community safety and design compliance.
- While issues associated with gas pipelines must be identified and taken into consideration, there is no clear requirement to refer the application to the licensee, which means that outcomes may not meet the licensee requirements.
- APA may be variously treated by local government as;
  - having no role;
  - being referred applications where development includes an APA easement;
  - being referred applications within the ML.

Planning policy needs to address the current issues to ensure the significant community safety obligations of HPGTP licence holders (in line with State legislation) are continually met. Improved planning policy is also required to ensure APA and other HPGTP licence holders can continue to operate effectively with security of gas supply in support of state economic activity (supply to business, industry and export markets) and residential uses.

In summary APA considers the following general actions are necessary to address these issues:

- Plan making policy and planning controls support the statutory obligations of licence holders.

- Referral to licence holders linked to specific development activity within the ML.
- Mapping of pipelines and MLs made widely available and included in strategic planning documents and local environmental plan mapping.
- Preparation of HPGTP planning policy to provide consistent planning controls.
- Involvement of licence holders as early as possible, from consideration of land use change, through plan making, and the development assessment process.

Some of these provisions are beyond the scope of the *draft SEPP*, but should be considered as part of the broader context framing our comments on the *draft SEPP*.

## **2 Submission Specifics**

### **Schedule 8**

The draft SEPP includes the following provision:

#### ***Schedule 8 Amendment of State Environmental Planning Policy (Infrastructure) 2007— development adjacent to gas pipeline corridors***

**[1] Part 3, Division 9, Subdivision 2, heading** (Corrects a heading.)  
Omit “**in**”. Insert instead “**adjacent to**”.

#### **[2] Clause 55 Development adjacent to corridor**

Omit clause 55 (1). Insert instead:

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

(a) give written notice of the application to the pipeline operator concerned within 7 days after the application is made, and

(b) take into consideration any response to the notice that is received from the pipeline operator within 21 days after the notice is given.

This replaces the current provision which reads:

#### ***Subdivision 2 Development in gas pipeline corridors 55 Development adjacent to corridor***

(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.

(2) In this clause, gas pipeline corridor means any land:

(a) within the licence area of a gas pipeline licensed under the Pipelines Act 1967, or

(b) within 20m (measured radially) of the centreline of any of the following gas pipelines:

(i) Central West Pipeline System and Central Ranges Pipeline System,

(ii) Eastern Gas Pipeline,

(iii) Moomba to Sydney Pipeline System,

(iv) Wilton to Newcastle Pipeline,

(v) Wilton to Wollongong Pipeline,

(vi) Culcairn to Victoria Interconnect Pipeline,

(vii) Hoskinstown to Australian Capital Territory Pipeline.

This section of NSW planning policy is currently the only significant acknowledgement of the importance of ensuring development around gas pipelines does not pose a safety risk and does not impact the integrity and safe operation of the pipeline. APA considers additional planning controls are required to address issues of development around HPGTPs (see General comment below). However, in the interim it is vital that this clause provides adequate oversight of the issues.

APA supports the correction in the heading to read "adjacent to" rather than "in". However, one of the biggest shortcomings in this clause is that it makes no provision for referral of development within the ML. This puts Sensitive Uses at increased risk, and does not consider the impact of land use change. While APA does not suggest all development within the ML needs to be referred, it is critical that certain Sensitive Uses and development is referred where occurring within the ML. Such referral does not mean that there will be any issues, but ensures that any impacts are considered and appropriately addressed (ideally through the application of separate guidelines). Suggested wording to address this issue is included below.

The draft wording has some key positives including the requirement to notify the "pipeline operator", where previously such notification was not stipulated. While notification should be stipulated, APA considers that the pipeline licensee should be notified instead of the operator. This ensures that the entity which is ultimately responsible for the license conditions, which include compliance with AS2885, is made aware of the development proposal. The licensee may choose to directly delegate the issue to an operator or notify local government of its preferred contact which may be the operator (and which would need to be for the specified operational contract period, and updated as necessary).

APA also supports mandatory timeframes for referral and response to ensure consistency and clarify expectations. However, APA recommends that a time period be added to allow the licensee to request further information about the development.

APA considers that the clause should include the referral application for modification of a consent as this may include a change which involves more impact on the pipeline and its safe operation. The clause should also include wording (as it currently does) which details the issues of safety risks and pipeline integrity, and takes those risks into consideration.

## **Recommendation**

Recommended wording for the new section is:

### ***Schedule 8 Amendment of State Environmental Planning Policy (Infrastructure) 2007— development adjacent to gas pipeline corridors***

#### ***Clause 55 Development adjacent to corridor***

- (1) Before determining a development 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.*
- (2) In order to comply with Section 1 the consent authority must:*
  - (a) give written notice of the application to the pipeline licensee concerned within 5 business days after the application is made, and*

(b) take into consideration any response to the notice that is received from the pipeline operator within 15 business days after the notice is given, or within 15 business days of the applicant providing additional information if this is required under section (2), and  
(c) impose any conditions on the development that are required by the pipeline licensee,

(3) The pipeline licensee may request further details of the proposed develop if required to formulate a response. Such a request must be made within 5 business days of the notice given by the consent authority under (2)(a).

(3) For the purpose of section 1, "adjacent to corridor" means:

(a) where the development site includes, or is within 50m of, an easement benefiting a gas pipeline licensee, or land owned by a gas pipeline licensee

(b) where the development is within the measure length of a gas pipeline as defined under Australian Standard 2885 and includes any of the following development:

- (i) residential development or subdivision resulting in over 30 dwellings per net hectare,
- (ii) child care centre,
- (iii) correctional centre,
- (iv) educational establishment,
- (v) entertainment facility
- (vi) function centre,
- (vii) highway service centre,
- (viii) home based child care
- (ix) hospital
- (x) hotel or motel accommodation
- (xi) medical centre
- (xii) places of public worship
- (xii) respite day care centre
- (xiii) retail premises
- (xiv) seniors housing
- (xv) service station
- (xvi) theatre
- (xvii) development which changes the current land use from rural to rural residential, industrial, or urban
- (xviii) development which changes the current land use from rural residential to industrial or urban.

### **Complying and exempt development**

The draft SEPP provides for additional development that would not require an application to be lodged. APA has concerns regarding the following (existing and proposed) which are included in this category, and as Sensitive Uses are preferred to be located outside of the ML:

- expansion of correctional centres as complying development (existing 26B, 1, a)
- addition to a health services facility building without consent (proposed 58.1, a)
- a health services facility, and associated uses, within an existing site of an health services facility as complying development (58C, 1, a-d).

### **Recommendation**

APA suggests the following additional sections to limit development of Sensitive Uses within the ML, without planning consent.

*S26B Complying development (relating to correctional centre)*

(1), (e)            *must not be located within the measure length (as defined by AS2885) of a high pressure gas transmission pipeline.*

S58B    *Development permitted without consent (relating to health services facility)*  
(3)            *Development of a kind referred to in subclause (1) or (2) is not permitted without consent if located within the measure length (as defined by AS2885) of a high pressure gas transmission pipeline.*

S58C    *Complying development (relating to health services facility)*  
(5)            *Development under this clause is not complying development if located within of the measure length (as defined by AS2885) of a high pressure gas transmission pipeline.*

## **Mapping**

Currently mapping under the SEPP (Infrastructure) only includes interim rail corridors. A much broader range of additional mapping could be provided through Department of Planning and Environment's website and ultimately the NSW planning portal. Inclusion of HPGTP mapping and MLs would be extremely useful to State government departments, strategic planners, local government, planning consultants, and development proponents. Such mapping is considered critical to support the draft SEPP, ensure early consideration of pipeline integrity and safety, and achieve the best possible outcomes for development around HPGTPs.

## **General**

Pipeline safety involves a technical area of planning not well understood by planners. There is also the issue that AS2885 terminology and requirements are not readily translated into planning terms and processes. Therefore, a specific planning guideline would be helpful in achieving the required legislative outcomes, and a consistent approach is adopted by referral entities under Clause 55 of the SEPP. This would greatly assist development proponents and strategic planners and provide a greater degree of certainty in their work. APA would be happy to participate with the Department of Environment and Planning, and other interested stakeholders, to develop such a guideline. It is also suggested that local environmental plans (in areas affected by a HPGTP) could include basic controls associated with HPGTPs. This would not replace the requirement for referral of the pipeline licensee, but would provide greater clarity and certainty about acceptable development outcomes. These controls should include the following:

- mapping of the pipeline, associated easement, and ML in a suitable overlay map (e.g. may be included with oil pipelines)
- an accompanying overlay code to apply appropriate development controls including:
  - reference to state guideline
  - avoid damaging or adversely affecting the pipeline's operations
  - in the case of reconfiguration, preservation of the pipeline easement as linear open space reserve with limited embellishment held in single title
  - any new road is located outside of the easement with any necessary crossings at 90 degrees (road located adjoining an easement is a preferred outcome)
  - exclusion of Sensitive Uses from the ML
- statement that Council will seek advice from the relevant licence holder where the overlay code applies.



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](mailto:planningnsw@apa.com.au) should you wish to discuss the contents of this correspondence.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'P. McCutcheon', with a large, stylized loop at the end.

**Phillip McCutcheon**  
**Urban Planning Manager**  
**Infrastructure Planning and Protection**