

22nd February 2017

Ms Gail McGowan
Director General
Department of Planning
Locked Bag 2506
Perth WA 6001

Dear Gail,

Submission on draft Development Control Policy 4.3 Planning for High Pressure Gas Pipelines

The Property Council of Australia proposes that the draft policy for planning for high pressure gas pipelines requires the highest level of government leadership to reframe the policy to:

1. Provide greater transparency, increase certainty and reduce risk to a proponent; and ensure independent decision making;
2. Require the cost burden to be the responsibility of the pipeline operator and not the landowner; and,
3. Enable innovation in the funding of gas infrastructure upgrades that will deliver wider benefits to government, industry and the community.

The Property Council has been approached by our industrial and residential land owners/ developer members who have a major fundamental industry concern with the current draft policy.

The issue is that while the policy is primarily concerned with the safety of the community – the planning authority is placing the regulatory burden on the landowner. Rather than the pipeline being the responsibility of the operator/owner of the infrastructure, the onus is on the landowner to:

- undertake the necessary due diligence to determine the impact of the gas pipeline;
- prepare a pipeline protection plan; and,
- implement and comply with the pipeline protection plan.

The draft policy requires all of the above at the cost of the landowner, yet to the satisfaction of the pipeline operator. This includes the imposition of a buffer beyond the original easement in which the pipes are laid (without compensation), as well as a presumption that the landowner would pay to protect the pipes from development.

This issue is both an erosion of a landowner's property rights by the planning authority, or put another way, the policy is imposing planning conditions that allow a pipeline operator to use another's land for its own purpose as well as expect that landowner to pay the cost of mitigation.

It is considered that this draft development control policy is in fact a step backwards from the current planning bulletin. Whilst the planning bulletin did impose buffers, that we oppose, it did so with transparency that provided certainty to developers. Specific setbacks were identified in the planning bulletin, rather than the current approach which identifies a trigger area with no certainty as to what can occur in the trigger area.

The extent to which these legal restrictions on the use of land have been imposed in the public interest is questionable. For example, when a pipeline operator can determine a buffer that can range from a 50m urban standard setback to a 500m rural standard setback the result is either:

- a) the developer is expected to pay the costs of protecting the pipeline from development; or
- b) the pipeline operator takes a large area of that land as a buffer that cannot be developed.

The current policy is clearly transferring the risk from being the responsibility of the pipeline operator (which provides a service of a public nature) to the landowner.

The Property Council strongly recommends that the policy be revised such that if a pipeline operator cannot operate the pipeline within the confines of its original easement, then the operator is responsible for funding alternative solutions. It is therefore recommended that:

i. Zone of Influence and Cost of Mitigation

The policy acknowledges that if the zone of influence is beyond the original easement corridor – mitigation is the responsibility of the pipeline operator.

ii. Australian Standards

The policy is based on old standards such as imposing a buffer, yet today there have been innovations in ways of protecting high pressure gas pipelines. The policy needs to acknowledge that buffers are not the only way and address solutions such as reinforcing the pipeline; covering the pipeline with concrete or decreasing the pressure in the pipeline.

iii. Funding

Pipeline operators should have set up sinking fund at the time the easement was established to address meeting standards as development occurs overtime. Given that pipeline operators have not made provision for industrial and urban development – they should have the option of increasing user tariffs to recoup costs over time.

The ERA clearly has a role to play in ensuring that the market is regulated and operated in a manner that is efficient, open and competitive and fair to gas market participants and their customers. This includes enabling pipeline operators to implement a funding model to upgrade apparatus to meet contemporary safety standards at the same time as support development (as per iii above).

Property Council members are impacted by the Parmelia Gas Pipeline, Dampier to Bunbury Natural Gas Pipeline and ATCO Gas Australia network in both metropolitan and regional areas. Under the current draft policy it is estimated that in urban areas the policy could result in the loss of thousands of dwellings that won't get built as a result of buffers set by pipeline operators. However - if the WAPC and the Department of Planning were to approach the issue in a more strategic way and through a joined-up government approach there would be significant benefits including:

- the state would benefit from upgraded infrastructure;
- the pipeline operator would ensure longevity in gas sales; and,
- the community would benefit from affordable dwellings being brought to market.

It would be a reasonable expectation that if the Commission was moving from a planning bulletin to a development control policy that the policy would improve certainty and reduce risk to developers and decision makers. The policy does not provide sufficient justification to suggest why this has not occurred.

The continual erosion of developable land and transfer of cost to landowners, directly impacts on the provision of land and housing affordability. As you know, the Property Council's 2017 state election campaign has prioritised the need for the creation of an Infrastructure WA tasked with identifying and staging the delivery of critical infrastructure. In the absence of any state infrastructure coordination - this is an important enabler that requires a coordinated approach to bring the WAPC, ERA, Department of Planning, Treasury and pipeline operators to the table to develop a policy that has the potential for being one of the first most significant infrastructure funding solutions in WA.

If you would like to discuss this proposal further as it requires strong leadership - please contact me on either liacomella@propertycouncil.com.au or 08 9426 1201. I look forward to hearing from you.

Sincerely



Lino Iacomella

Executive Director – WA

cc. **Eric Lumsden, PSM, Chair – Western Australian Planning Commission**
Greg Watkinson, CEO - Economic Regulatory Authority
Nicola Cusworth, Chair - Economic Regulatory Authority