10 March 2016

Nick Wimbush  
Major Hazards Advisory Committee  
c/- Planning Panels Victoria  
Level 5, 1 spring Street  
Melbourne VIC 3000

Dear Mr Wimbush

Public Submission to Major Hazard Facilities Advisory Committee Discussion Paper

Thank you for the opportunity to comment on the Major Hazard Facilities Advisory Committee Discussion Paper.

Comments are offered in the context of the planning work undertaken by MPA for greenfield development and for the redevelopment of exiting established areas, where there are existing high pressure gas transmission pipelines. Therefore this submission focuses on questions related to the subject of pipelines, but also contains a note regarding encroachment on industrial uses by sensitive uses.

Who is the right person or body to advise planning authorities and responsible authorities on pipeline issues?

The Minister administering the Pipelines Act 2005 is a prescribed Minister under the Planning and Environment Act. That Minister, as the pipeline manager on behalf of the Crown, clearly has a role in managing the safety and integrity of the pipe infrastructure.

In the current regulatory environment the actual detailed assessment of planning proposals, often including the preparation of a safety management study, is undertaken by the pipeline licensee.

Submissions to planning scheme amendments from pipeline licensees have tended to seek a range of powers (often including determining referral authority status) over planning decisions and often seek to limit the intensity of land use and development for excessive distances around pipelines.

The MPA considers that the role of the Minister, and the relevant representative of the Department of Economic Development, Jobs, Transport and Resources under delegation, should be clarified.

Whom does the planning scheme refer to?

As noted above, the Minister administering the Pipelines Act 2005 is a prescribed Minister in terms of notification of a planning scheme amendment.

In regard to subdivision permit applications on land containing a gas transmission pipeline easement, the Planning and Environment Act specifies that referrals must be made to ‘the relevant gas supply authority’.

This is somewhat inconsistent with the structure of the contemporary gas supply industry in Victoria where there is no ‘supply authority’ as such: there are private companies licenced to supply, distribute and retail gas products, and Ministers are responsible for administering the relevant Act/s.
The MPA considers that there is a need to better integrate the authority of the Minister with the operators’ knowledge and expertise, to produce an authoritative and united source of advice on matters related to pipelines in relation to land use and development.

What is the risk and potential impacts?

The potential risk is that a pipeline may be ruptured resulting in an explosion or fire fuelled by the substance which is transmitted through the pipeline. The potential impacts are injury, loss of life, disruption to fuel supply and property damage.

In terms of adjacent land use and development more specifically, the risk is that in the course of development a pipeline will be damaged with potential injury, disruption to fuel supply, loss of life or property damage.

Recent submissions to MPA discuss the need to mitigate potential impacts resulting from pipeline failure through controlling population densities in areas around pipelines. However, in many cases these locations may be precisely those that, for good planning and design reasons, are suited to higher density development - for example located close to public transport and other amenities.

Therefore MPA considers that the focus of policy should be to manage the risk eventuating in the first place through the protection and/or provision of gas pipelines constructed to an appropriate standard, rather than the current approach of limiting potential future land development.

How likely is it that the risk will eventuate?

Evidence presented at a recent panel hearing for the Whittlesea C187 Planning Amendment suggested the risks appear to be very remote. However this it is also clear that this is difficult to quantify as the MPA understands there never been a high pressure gas pipeline rupture in Australia which resulted in an explosion or fire.

How is the risk currently managed with regard to potential damage from non-licensees?

Pipelines are usually in easements or reserves across the state, and so it lies with the easement beneficiary to protect their rights under the easement.

The Pipelines Act 2005 requires a raft of safety reporting and activities by licensees and prescribes penalties for acts endangering the integrity of pipelines.

The MPA supports the need for pipeline licensees to continue their strong focus on monitoring and maintenance of the gas pipelines. This is based upon a strong profit incentive for the private licensees to maintain the pipes to a high standard so as to enable constant use and minimise disruption, and results in clear public safety and productivity outcomes.

Is there a need for planning policy or implementation?

In any matter where additional regulation is considered, there is first a need to analyse if there is an existing regulation already responding to the issue in an adequate manner.
The MPA considers that in this instance a careful analysis of the *Pipelines Act 2005* and its enforcement should be undertaken before considering potentially duplicating provisions in planning schemes.

**Is a risk-based spatial overlay appropriate?**

The MPA supports improved information regarding the location of high pressure gas transmission pipelines, which should be well-known and easily accessible to planners at the strategic planning stage. This in turn would make early consultation with gas transmission authorities more likely.

One option flagged by the Advisory Committee is a risk-based spatial overlay. This may have merit, but as outlined above we would recommend careful analysis of the *Pipelines Act 2005* and its enforcement before considering additional regulatory approaches.

A complication to an overlay approach may be in instances where an existing pipeline has been replaced or otherwise “protected” which then results in an altered (lower) risk profile. An overlay may also not be necessary in an area where pipelines have been constructed to the standard now imposed in areas of higher density development.

Therefore there is a need to apply controls selectively, depending upon the characteristics of a given section of gas pipeline at a given time. Such an approach may be difficult to reconcile with planning overlays, which are typically long term in nature and difficult to modify/ remove.

The MPA considers that potential built form/ urban design outcomes resulting from the potential application of overlays would also require further analysis.

**Land development around pipelines working group**

The MPA has been participating in a ‘Land Development Around Pipelines’ working group chaired by Energy Safe Victoria, together with representatives of DEDJTR; Department of Environment, Land, Water and Planning; and the Australian Pipeline and Gas Association. The working group has been a useful forum for exchanging ideas, developing closer relationships and discussing case studies of planning around pipelines.

The MPA has provided input to ESV’s submission to this Advisory Committee within the working group forum. There is merit in further consideration of the proposals in ESV’s submission and options paper, but it should be noted that the submission is ESV’s and the MPA does not necessarily endorse all options presented, as outlined in this submission.

**The ‘agent of change’ principle and encroaching sensitive uses**

The EPA is developing an Options Paper to better manage encroachment. The purpose of the paper is to identify and evaluate options for improving the management of residential encroachment on industry through the planning system, and will investigate various options to manage encroachment.

Tools to be investigated include zoning, overlays, referral of planning permit applications and strategic planning (i.e. framework and structure planning). The MPA has provided input to the development of some of these tools as part of a working group, and supports further investigation of these tools as a method for protecting industry from encroachment by sensitive uses.
Other comments

Where there are existing high pressure gas mains, there is a potential cost and/or risk burden placed onto a local community simply because their neighbourhood hosts a State and National resource. There are sensitivities where that resource is being operated for profit by private corporations.

Where new high pressure gas transmission pipelines are being contemplated, there should be every effort made to construct these in locations and to an appropriate standard that minimises or avoids future potential community risks and/or costs. Current growth area planning in Melbourne’s growth areas indicates where future greenfield developments will occur.

The MPA sees merit in a government response to this issue and an assessment of the risk versus the cost of change to the current legislative framework and its implementation. We support the Advisory Committee’s consideration of this issue and would welcome the opportunity for further discussion with the Advisory Committee on this matter.

MPA Contact

Should you have any queries regarding these comments please contact Martina Johnson (martina.johnson@mpa.vic.gov.au), Structure Planning Manager, on 03 9651 9600.

Yours sincerely

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