



Department of  
Planning



Western  
Australian  
Planning  
Commission

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# DRAFT DC Policy

# 4.3

- Planning for  
High-Pressure Gas Pipelines

# Development Control Policy 4.3

## - Planning for High-Pressure Gas Pipelines

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## 1 Citation

This is a Development Control policy prepared under Section 14(b)(ii) of the *Planning and Development Act 2005*.

This policy may be cited as *Development Control Policy 4.3: Planning for High-Pressure Gas Pipelines* (DC 4.3).

## 2 Policy intent

This policy establishes the Western Australian Planning Commission's (WAPC) position regarding development along high-pressure gas pipelines. It seeks to protect people from unacceptable levels of risk from high-pressure gas pipelines by protecting high-pressure gas pipelines from unregulated encroachment.

This policy is to be read in conjunction with the DC 4.3 Guidelines, which are an adjunct to the policy.

## 3 Background

Western Australia's high-pressure gas pipelines perform a critical logistics role for the State. Their inherent operational risks are managed through a comprehensive regulatory framework, one component of which is the planning system.

Development along such pipelines may pose a risk to pipeline integrity and, equally, may be at risk should a pipeline failure occur. The consequences of a pipeline failure have implications for life, property, the environment and the State's economy. The planning system should manage the interface between pipelines and other land uses.

This policy replaces *Planning Bulletin 87: High Pressure Gas Transmission Pipelines* in the Perth Metropolitan Region (PB 87). It includes the following changes from PB 87:

- Application to high-pressure gas pipelines throughout the State.
- Greater direction on the risk management measures that should be taken, and by whom, at each stage of the planning process.
- New provisions relating to consultation with pipeline owner/operators as a means of defining risk mitigation measures on a case-by-case basis.
- Greater direction on how land within pipeline licence areas can or should be used and managed.

- Clarification of the implications and means of addressing Section 41 of the *Dampier to Bunbury Pipeline Act 1997*.

### 3.1 Application

This policy applies to land in the vicinity of any high-pressure gas pipeline in Western Australia.

Mapping of the high-pressure gas pipelines to which this policy applies and the policy trigger distances is available on the Department of Planning's website. Where no policy trigger distance is specified, the policy applies to land within 300 metres of a high-pressure gas pipeline.

#### 3.1.1 Definition of terms

The term 'high-pressure gas pipeline' refers to a gas pipeline licensed under the *Petroleum Pipelines Act 1969* or the *Energy Coordination Act 1994* to operate at a pressure equal to, or exceeding, 1.9 megapascals. It includes appurtenant features such as valves and meter stations.

All use of the term 'pipeline' in this policy should be taken to mean a high-pressure gas pipeline to which this policy applies unless an alternative meaning is specified.

The term 'measurement length' is defined and calculated in accordance with the relevant Australian Standard (AS 2885 - Pipelines - Gas and



liquid petroleum) and is used by this policy as the policy trigger distance.

### 3.1.2 List of high-pressure gas pipelines

High-pressure gas pipelines in WA include the following, all of which are privately owned and operated:

- Dampier-Bunbury Natural Gas Pipeline (DBNGP)
- Eastern Goldfields Pipeline
- Fortescue River Gas Pipeline
- Goldfields Gas Pipeline
- Kalgoorlie-Kambalda Pipeline
- Kambalda-Esperance Pipeline
- Mid-West Pipeline
- Parmelia Gas Pipeline
- Pilbara Pipeline System
- Wheatstone-Ashburton West Pipeline.

In addition to the transmission pipelines listed above, a number of pipelines linking transmission pipelines to the distribution network, such as the Geraldton and Bunbury laterals, are also licensed to operate at or above 1.9 megapascals and are subject to this policy.

### 3.1.3 The planning system

This policy applies to strategic plans, region schemes (including amendments and liftings of Urban Deferment), improvement schemes and plans, local planning schemes (including amendments), structure plans, subdivision applications, development applications and local development plans.

### 3.1.4 Other pipelines

The principles and procedures detailed in this policy may be applicable to other pipelines licensed under the *Petroleum Pipelines Act 1969* or the *Energy Coordination Act 1994*. However, there is no expectation that planning decision-makers will give the policy due regard in relation to pipelines other than those discussed in Section 3.1.1 of this policy.

## 3.2 Exemptions

### 3.2.1 No policy requirements for certain subdivision and development

Notwithstanding Section 6.3 of this policy, there are no policy requirements for subdivision and development on land that is not intersected by a pipeline and not zoned for a 'Sensitive', 'Industrial', 'Heavy Industrial' or 'Common Infrastructure Corridor' purpose.

The terms 'Sensitive', 'Industrial', 'Heavy Industrial' and 'Common Infrastructure Corridor' are defined in Part 1 of the DC 4.3 Guidelines.

There are no policy requirements for these planning proposals because they do not constitute an intensification of development or a change of development beyond what is already provided for in the relevant local planning scheme (and region scheme, where one is applicable).

### 3.2.2 Regulation of gas pipelines

This policy is intended for application where land use planning is the agent of change. It does not apply to decision-making processes related to the location, design, construction or operation of high-pressure gas pipelines, which are regulated under separate legislation, including the *Petroleum Pipelines Act 1969* and the *Energy Coordination Act 1994*.

Nothing in this policy absolves any stakeholder from their responsibilities and obligations under other legislation or regulations.

### 3.2.3 Other policies

Where a setback defined by a pipeline owner/operator in accordance with Section 5.2 of this policy intersects with a setback (or similar) defined under a State Planning Policy, the latter takes precedence.



## 4 Policy objectives

The objectives of this policy are to:

- Guide strategic planning for land in the vicinity of high-pressure gas pipelines in order to minimise land use conflict.
- Ensure that people and development in the vicinity of a high-pressure gas pipelines are not subject to an unacceptable risk from that infrastructure.
- Ensure that people and development in the vicinity of a high-pressure gas pipeline do not pose an unacceptable risk to the integrity of that infrastructure.
- Provide guidance on how land within pipeline licence areas and the DBNGP corridor should be developed and managed.

In considering these objectives, it should be noted that risk to the pipeline is related to risk from the pipeline; that is, measures to protect the integrity of the pipeline also protect people and development.

## 5 Policy measures

### 5.1 Land within a pipeline licence area or the Dampier-Bunbury Natural Gas Pipeline corridor

The development of land within a pipeline licence area or the DBNGP corridor is subject to restrictions originating with the *Petroleum Pipelines Act 1969*, the *Energy Coordination Act 1994* and (for the DBNGP corridor) the Dampier to Bunbury Pipeline Act 1997. These restrictions seek to:

- protect the pipeline from direct damage;
- preserve line of sight along the pipeline;
- provide unrestricted access to the pipeline for the pipeline owner/operator for maintenance and emergency response purposes; and
- maintain the topography of the land.

Development that would be inconsistent with these restrictions is unlikely to be permitted by the pipeline owner/operator (or, for the DBNGP corridor, the Department of Lands). The range of permissible planning and management outcomes is limited. However, as a general principle, land within pipeline licence areas or the DBNGP corridor should not be left unmanaged. Such land can be of benefit to the community.

On land zoned Urban in a region scheme (or equivalent in non-region scheme areas), it is generally desirable for land within a pipeline licence area or the DBNGP corridor to be developed and managed as restricted use public open space (provisions relating to which appear in the WAPC's *Liveable Neighbourhoods* policy). Management of such land, which is vested in the Crown under Section 152 of the *Planning and Development Act 2005*, is generally the responsibility of the local government in agreement with the pipeline owner/operator.

To cover the cost of managing public open space provided at a rate greater than would otherwise be required, the local government can use measures such as a Specified Area Rates (which are provided for by Section 6.37 of the *Local Government Act 1995*). This may be appropriate where (for example) a development site is significantly affected by restricted use public open space and where that open space is developed and managed to a standard that is of benefit to the community for active and/or passive recreation.

Outside of land zoned Urban in a region scheme (or equivalent in non-region scheme areas), it may be more appropriate for land within a pipeline licence area or the DBNGP corridor to be retained and managed in private ownership.



## 5.2 Land outside a pipeline licence area or the Dampier-Bunbury Natural Gas Pipeline corridor

Development on land outside pipeline licence areas or the DBNGP corridor, but within the policy trigger distance, may also need to be managed.

Unless one of the exemptions listed at Section 3.2.1 of this policy applies, the proponent of any planning scheme or amendment, structure plan, subdivision application or development application should consult with the pipeline owner/operator to obtain advice on what (if any) risk mitigation measures, which may include setbacks, are required in order to ensure that the proposed development would not result in an increased risk to the integrity of the pipeline and the safety of people.

In doing so, the proponent should provide the following information to the pipeline owner/operator:

- the type of development proposed;
- which AS 2885 land use classification the proposed development is considered to fall within;
- the anticipated density of the development proposed (for example, the potential lot yield);
- if known, the timeframe for commencement of works, including likely staging arrangements; and

- if known, the number of road and service crossings likely to eventuate.

The pipeline owner/operator should use this information to:

- Assess the impact the proposed development is likely to have on the pipeline's Safety Case and the pipeline owner/operator's obligations under AS 2885 (or equivalent); and
- Specify to the proponent and the planning decision-maker:
  - The anticipated setback required from the pipeline (if any); or
  - The risk mitigation measures (if any) that are likely to be required at the subdivision and development stage in order to ensure that such proposals would not result in an increased risk to the integrity of the pipeline and the safety of people.

The proponent may negotiate with, or seek clarification from, the pipeline owner/operator on any of the risk mitigation measures specified. However, the expectation at all times will be that the integrity of the pipeline and the safety of people will be protected.

The risk mitigation measures required will depend on the type of development proposed and the characteristics of the pipeline. Examples of the risk mitigation measures that may be required by the pipeline owner/operator appear in the DC 4.3 Guidelines.

Advice received from the pipeline owner/operator should be documented and implemented in accordance with the 'Implementation' section of this policy.

## 6 Implementation

This section details how high-pressure gas pipelines should be addressed at each stage of the planning process.

### 6.1 Strategic planning

Strategic planning proposals include regional and sub-regional frameworks, regional and sub-regional strategies and regional and sub-regional structure plans, and Local Planning Strategies.

When preparing such documents, the proponent should liaise with the relevant regulator and the Department of Lands to identify any existing and future high-pressure gas pipelines located within the affected land. If any are identified, the following should occur:

- the relevant pipeline owner/operator should be invited to make comment on the proposal;
- the location of all high-pressure gas pipeline licence areas should be shown on the maps; and
- the policy measures likely to be applicable at later stages of the planning process should be acknowledged in the text.



Opportunities to avoid identifying land for an intensification or change of development should be fully investigated at this stage of the planning process in order to minimise the risk of future land use conflict.

## 6.2 Planning schemes and structure plans

### 6.2.1 Land within a pipeline licence area or the Dampier-Bunbury Natural Gas Pipeline corridor

During the preparation of new planning schemes, amendments to planning schemes and structure plans for land within a pipeline licence area or the DBNGP corridor, consideration should be given to how such land will be developed and managed. Reference should be made to Section 5.1 in this regard.

### 6.2.2 Land outside a pipeline licence area or the Dampier-Bunbury Natural Gas Pipeline corridor

During the preparation of new planning schemes, amendments to planning schemes and structure plans for land outside pipeline licence areas or the DBNGP corridor, but within the policy trigger distance, consultation with the pipeline owner/operator in accordance with Section 5.2 of this policy should be undertaken.

The setback/s or risk mitigation measures identified through this consultation should be specified in the documentation supporting the proposed planning scheme or amendment, in the scheme text and, where a setback is required, the scheme map. Such provisions may be appropriately located in schedules to the scheme provided for in the *Planning and Development (Local Planning Schemes) Regulations 2015* such as the 'Additional site and development requirements' or 'Additional site and development requirements for areas covered by structure plan, activity centre plan or local development plan' schedules, or through a Special Control Area.

For structure plans, setback/s or risk mitigation measures should be specified in the structure plan report and, where a setback is required, on the map. Opportunities to avoid unnecessarily sterilisation of land by requiring setbacks without fully considering other risk mitigation measures should be taken wherever possible.

In preparing provisions for planning schemes or structure plans, consideration should be given to the land use/s that may be exempt from planning approval and therefore could not have risk mitigation measures imposed at development stage.

The requirements of this section also apply to any Local Development Plan prepared in accordance with a provision of a structure plan.

## 6.2.3 Developer Contribution Plans

In the event that a structure plan identifies risk mitigation measures that would benefit more than one proponent, it may be appropriate for the relevant proponents to make arrangements to share the cost of implementing those risk mitigation measures. Doing so through a Developer Contribution Plan would not be consistent with the WAPC's *State Planning Policy 3.6 - Development Contributions for Infrastructure*, however, a private agreement may be appropriate.

## 6.3 Subdivision and development

Unless subject to an exemption specified at Section 3.2.1 of this policy, any subdivision or development application affecting land within a pipeline measurement length should be accompanied by evidence of consultation with any relevant pipeline owner/operator.

If the lot is within a setback defined at a previous stage of planning, is subject to risk mitigation measures identified at a previous stage of planning, or is intersected by a pipeline, a Pipeline Risk Management Plan (PRMP) prepared and approved by the pipeline owner/operator should be provided with the application. Reference should be made to Part 2 of the DC 4.3 Guidelines in this regard.



The requirements of this section also apply to any Local Development Plan prepared in accordance with a condition imposed on a subdivision approval.

### 6.3.1 Conditions of approval

Conditions should be used to ensure that proponents implement the mitigation measures specified in the PRMP. These should be worded in accordance with the model conditions listed in Part 3 of the DC 4.3 Guidelines.

Any risk mitigation measures identified by the PRMP must fairly and reasonably relate to the proposal and must be implemented at the cost of the proponent unless an alternative arrangement is agreed to by the pipeline owner/operator. The radial nature of a gas explosion means that risk mitigation measures relating to a part of the pipeline located outside of the application area may have sufficient nexus to be a requirement of planning approval.

Risk mitigation measures required of proponents should not include routine maintenance work (which is the normal responsibility of the pipeline owner/operator) but may include upgrades to the pipeline (including valves and metering stations). Where an upgrade is required, the pipeline owner/operator should advise the proponent of the extent and likely cost of that upgrade prior to the PRMP being approved.

### 6.3.2 Staging

Where a subdivision or development application proposes to be implemented in stages, the PRMP should be prepared for the proposal as a whole. Conditions imposed to ensure implementation of any relevant recommendations of the PRMP may, however, refer to a particular stage.

### 6.3.3 Referrals

All subdivision and development applications affecting land intersected by a pipeline should be referred automatically to the relevant pipeline owner/operator, the relevant regulator and, if the pipeline is the DBNGP, the Department of Lands for comment.

In the event of inconsistency between one or more of the responses provided, clarification should be sought and documented by the planning decision-maker.

### 6.3.4 Notifications on Title

Existing or prospective owners of a new lot, or a lot affected by a development approval, that is intersected by a pipeline should be made aware of the presence of the pipeline through use of a notification on the Certificate of Title. This should be required as a condition of approval.

Notifications should be imposed pursuant to Section 70A of the *Transfer of Land Act 1893* and should be worded in accordance with the text included in the DC 4.3 Guidelines.

### 6.3.5 Section 41 of the Dampier to Bunbury Pipeline Act 1997

Subdivision and development applications affecting land within the Dampier-Bunbury Natural Gas Pipeline corridor may trigger a need for approval under Section 41 of the *Dampier to Bunbury Pipeline Act 1997*. Advice from the Department of Lands should be sought in this regard, and if approval is required the procedure detailed in the DC 4.3 Guidelines should be followed.



## Guidelines

### PART 1: Definitions

#### AS 2885:

Australian Standard 2885: *Pipelines - Gas and liquid petroleum*. This document specifies requirements for the design and construction of pipelines designed to carry (among other products) natural gas.

#### Common Infrastructure Corridor:

*Adapted from the definition in AS 2885:* Land containing multiple (more than one) parallel infrastructure assets within a common easement or reserve, or in abutting easements or reserves.

#### Development:

As defined in the *Planning and Development Act 2005*.

#### DBNGP:

Dampier-Bunbury Natural Gas Pipeline.

#### DBNGP corridor:

Land designated as such under the *Dampier to Bunbury Pipeline Act 1997*. The DBNGP corridor may contain more than one pipeline licence area.

#### DoL:

Department of Lands.

#### DMP:

Department of Mines and Petroleum.

#### DoP:

Department of Planning.

#### Heavy Industrial:

*Adapted from the definition in AS 2885:* Land identified in a local planning scheme (and region scheme, where applicable) as being for a heavy industrial purpose.

#### High-pressure gas pipeline:

Pipelines licensed under the *Petroleum Pipelines Act 1969* or the *Energy Coordination Act 1994* to operate at a pressure equal to, or exceeding, 1.9 megapascals.

#### In the vicinity:

Within the DC 4.3 policy trigger distance.

#### Industrial:

*Adapted from the definition in AS 2885:* Land identified in a local planning scheme (and region scheme, where applicable) as being for an industrial purpose.

#### Pipeline licence area:

Land defined in a licence issued under the *Petroleum Pipelines Act 1969* or the *Energy Coordination Act 1994* for the purpose of constructing and operating a pipeline. A standard requirement of pipeline licences is that the licensee has access to the licence area. This could be through fee simple ownership or an easement.

#### Pipeline Risk Management Plan (PRMP):

A document identifying the risk mitigation measures required in order to ensure that

implementation of a subdivision or development approval would not result in an increased risk to the pipeline and the safety of people.

#### Relevant regulator:

For pipelines licensed under the *Petroleum Pipelines Act 1969*, the Department of Mines and Petroleum. For pipelines licensed under the *Energy Coordination Act 1994*, the Office of Energy Safety.

#### Risk:

As defined in the WAPC's Development Control Policy 4.2: Planning for Hazards and Safety: "the likelihood of any unwanted consequences such as death, injury, damage to property and damage to the environment", and, for the purposes of DC 4.3, economic disruption.

#### Sensitive:

*Adapted from the definition in AS 2885:* Development for which the consequences of a pipeline failure may be increased because its purpose is for parts of the community who may be unable to protect themselves from the consequences of a pipeline failure. Sensitive development includes schools, hospitals, aged-care facilities and prisons, but not residential development.

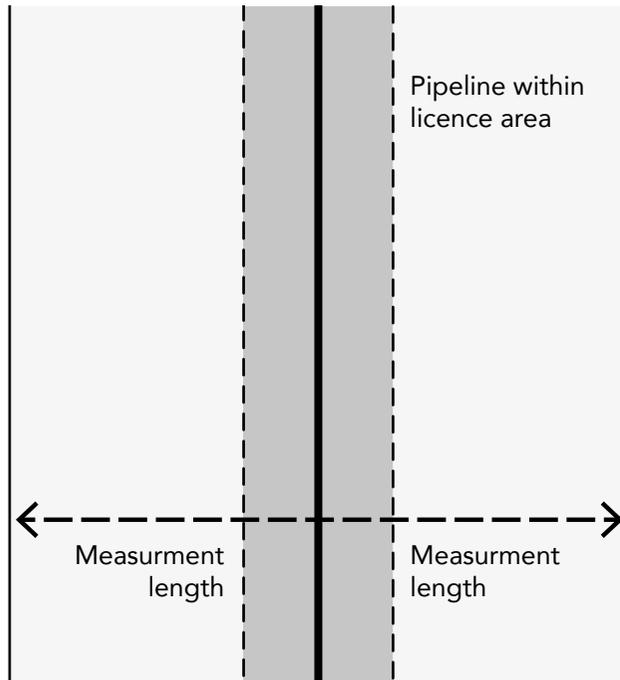
#### WAPC:

Western Australian Planning Commission.



## Guidelines

### PART 2: Risk assessment and management



**Figure G1:** schematic cross-section of a pipeline, pipeline licence area and pipeline measurement length.

#### Engagement with pipeline owner/operators

The predecessor to DC 4.3, Planning Bulletin 87, contained setback distances for the two pipelines to which it applied (the Dampier-Bunbury Natural Gas Pipeline and Parmelia Gas Pipeline within the Metropolitan Region Scheme area). These were taken from a Quantitative Risk Assessment prepared for each pipeline for the State Government on the basis of individual fatality risk levels set by the Environmental Protection Authority.

The regulatory framework for high-pressure gas pipelines established under the *Petroleum Pipelines Act 1969* and the *Energy Coordination Act 1994* places the responsibility for demonstrating that the level of risk to and from a pipeline is at an acceptable level solely on the pipeline owner/operator. Regulatory authorities such as the Department of Mines and Petroleum and the Office of Energy Safety cannot direct a pipeline owner/operator to accept risk mitigation measures that differ from those that the pipeline owner/operator deems necessary to ensure that the level of risk to and from a pipeline is managed. As such, a setback distance defined on the basis of a third-party risk assessment may not reflect the risk mitigation measures deemed necessary by the pipeline owner/operator. The likelihood of this occurring may increase over time with factors such as, for

example, a change in the requirements of industry standards, the methodology used to assess risk, or a change in the operation of the pipeline.

It is for this reason that DC 4.3 does not contain pre-defined setback distances. Instead, DC 4.3 requires proponents to engage with pipeline owner/operators for all planning proposals within a pipeline measurement length (unless an exemption applies) to obtain information about what risk mitigation measures, if any, are likely to be required to ensure that the proposal would not result in an increased risk to the integrity of the pipeline and the safety of people.

#### Pipeline Risk Management Plan

Section 6.3 of DC 4.3 specifies the planning proposals that should be accompanied by a Pipeline Risk Management Plan (PRMP). The primary purpose of the PRMP is to specify a combination of risk mitigation measures to be implemented to ensure that development would not result in an increased risk to the integrity of the pipeline and the safety of people. The risk mitigation measures specified in the PRMP should be consistent with the risk mitigation measures foreshadowed by the pipeline owner/operator at higher levels of the planning process (where applicable). Such measures could include (but are not limited to):



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- increased pipe wall thickness (usually achievable only through a pipeline upgrade);
- increased depth of cover;
- concrete capping;
- bollards or fencing as a means of restricting access;
- restrictions on the permissible number of road and service crossings; and
- signage.

The information required in the PRMP should include (but is not limited to):

- the objectives of the PRMP;
- the specifications of the section/s of the pipeline/s to which the PRMP relates, including its construction standard and existing and proposed depth of cover;
- a list of potential threats to the integrity of the pipeline caused by the planning proposal to which the PRMP relates; and
- a list of mitigation measures and the timing of and responsibility for their implementation.

The PRMP should be prepared by a suitably qualified person at the proponent's cost in consultation with the pipeline owner/operator, the relevant regulator and, if the pipeline is located within the DBNGP corridor, the Department of Lands. The PRMP should be approved by the pipeline owner/operator. Technical advice from the pipeline owner/operator, the relevant regulator and the Department of Lands should be sought by the planning decision-maker wherever necessary when a planning proposal including a PRMP is being assessed.



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### PART 3: Model conditions

#### Notifications on Title

Section 6.4 of DC 4.3 requires notifications to be placed on the Certificates of Title of lots intersected by a pipeline licence area or the Dampier-Bunbury Natural Gas Pipeline corridor. This should be done through a condition of subdivision or development approval. The condition and notification are to be worded as follows:

*"A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the Certificates of Title of the proposed lots advising of the existence of a hazard or other factor. Notice of this notification is to be included on the diagram or plan of survey (Deposited Plan). The notification is to state as follows:*

*'This lot is intersected by a high-pressure gas pipeline. There are restrictions on how land above the pipeline can be developed and used, and the pipeline owner/operator may, from time to time, require access to that land. Further information in this regard is available from the pipeline owner/operator.'*

*(Western Australian Planning Commission)*

#### Implementation of risk mitigation measures

Section 6.4 of DC 4.3 requires applications for subdivision or development approval affecting land subject to DC 4.3 to be accompanied by a Pipeline Risk Management Plan.

Implementation of the recommendations of Pipeline Risk Management Plans should be required through the use of the following condition:

*"The recommendations of the Pipeline Risk Management Plan dated [DATE] and prepared by [AUTHOR] relating to the subdivision stage are to be implemented by the proponent. ([pipeline owner/operator])"*

A Pipeline Risk Management Plan prepared in support of a subdivision application (for which the planning decision-maker is the WAPC) may make recommendations relating to the development stage of the planning process. In such circumstances, it may be appropriate to include the following advice note on the approval:

*"It is the Western Australian Planning Commission's expectation that any recommendations of the Pipeline Risk Management Plan dated [DATE] and prepared by [AUTHOR] relating to the development stage will be implemented at that stage."*



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### PART 4: Regulation of gas pipelines

#### 4.1 Licensing

High-pressure gas transmission pipelines in Western Australia are licensed under the *Petroleum Pipelines Act 1969*. High-pressure gas distribution pipelines are licensed under the *Energy Coordination Act 1994*.

For transmission pipelines and distribution pipelines respectively, the *Petroleum Pipelines (Management of Safety of Pipeline Operations) Regulations 2010* and the *Gas Standards (Gas Supply and System Safety) Regulations 2000* require the submission of a Safety Case to demonstrate how risk to and from pipeline infrastructure will be managed. Safety Cases prepared under the *Petroleum Pipelines (Management of Safety of Pipeline Operations) Regulations 2010* are approved by the Minister for Mines and Petroleum; Safety Cases prepared under the *Gas Standards (Gas Supply and System Safety) Regulations 2000* are approved by the Director of Energy Safety created under the *Energy Coordination Act 1994*.

Safety Cases include information about risks to pipeline integrity and the measures required to reduce each of those risks to an acceptable level (for which there is more than one definition;

AS 2885, for example, advocates a level that is 'as low as reasonably practicable' (ALARP)). The Safety Case contains the information required for a pipeline owner/operator and the proponent of a planning proposal to identify the risk mitigation measures required to ensure that the planning proposal will not result in an increase in risk to the pipeline.

#### 4.2 Economic Regulation Authority Act 2003

The Economic Regulation Authority (ERA; part of the Department of Finance) has overall responsibility for the regulation of the State's gas production and distribution network, including access arrangements for the Dampier-Bunbury Natural Gas Pipeline, Goldfields Gas Pipeline and the Mid-West and South-West Gas Distribution System. The ERA performs this role pursuant to the *Economic Regulation Authority Act 2003*.

#### 4.3 Dampier to Bunbury Pipeline Act 1997

Constructed and initially owned by the State Government, the Dampier-Bunbury Natural Gas Pipeline (DBNGP) was privatised pursuant to the *Dampier to Bunbury Pipeline Act 1997* (DBP Act). The Ministerial custodian of the DBP Act is the

Minister for Energy, who on this topic is advised by the Public Utilities Office (part of the Department of Finance).

The DBP Act vested land within the DBNGP corridor (as opposed to the pipeline itself) in a discrete Minister called the DBNGP Land Access Minister, who must act in accordance with the advice of the Minister for Energy. Pursuant to the *Government Gazette* of 10 October 2008, the Ministerial custodian of the *Land Administration Act 1997* (at the time of publication, the Minister for Lands) is the DBNGP Land Access Minister. The duties of the department supporting the Ministerial custodian of the *Land Administration Act 1997* (at the time of publication, the Department of Lands) include matters for which the DBNGP Land Access Minister is responsible. Although the DBNGP corridor was defined around the DBNGP itself, the DBNGP corridor may (and does, in some places) contain more than one pipeline licence area and is managed by the Department of Lands on that basis.

Section 41(2)(b)(ii) of the *Dampier to Bunbury Pipeline Act 1997* necessitates approval in writing from the DBNGP Land Access Minister before "statutory powers under any other written law" are exercised "in a way or to an extent that could reasonably be expected to materially interfere" with the operation of the pipeline (referred to herein as 'Section 41 approval'). This provision could be



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interpreted as a fetter on decision-making powers under the *Planning and Development Act 2005* (an “*other written law*”).

The Department of Lands, through its duties in support of DBNGP Land Access Minister, determines whether approval under Section 41 is required. However, the term “materially interfere” (as mentioned above) creates two general scenarios:

- Where a planning decision would lead directly to works that could interfere with the operation of the pipeline, Section 41 approval is likely to be required before that decision can be made. An example of such a decision is a subdivision approval, which can, and often does, authorise physical works.
- Where a planning decision would not lead directly to works that could interfere with the pipeline, Section 41 approval is less likely to be required. An example of such a decision is a local planning scheme amendment, which does not authorise physical works.

Where Section 41 approval is required, it should be granted only after the planning decision-maker has advised the Department of Lands that the application has its in-principle support. This

would give the Department of Lands the ability to assess an application for Section 41 approval with the understanding that no further changes to the application are required in order for subdivision or development approval to be granted. This would minimise the risk of the Section 41 approval (if forthcoming) relating to a superseded application and, equally, give the planning decision-maker the ability to require changes to the application if an impediment to the issuing of Section 41 approval was identified by the Department of Lands.

Provided that the Department of Lands has been properly engaged by the proponent throughout the planning process, this process should not cause an unreasonable delay to the issuing of either approval. In addition, it would generally be appropriate for the Section 41 approval to be issued for the same period of time as the subdivision or development approval.



## Guidelines

### PART 5: DC 4.3 in the planning process

Planning stage	Scope to consider high-pressure gas pipelines	Provisions of DC 4.3
<b>STRATEGIC PLANNING</b>		
Regional and sub-regional frameworks Regional and sub-regional strategies Regional and sub-regional structure plans Local Planning Strategies	<ul style="list-style-type: none"> <li>• Identification of existing and proposed high-pressure gas pipelines on maps.</li> <li>• Acknowledgement of the policy measures likely to be applicable at later stages of the planning process.</li> </ul>	<ul style="list-style-type: none"> <li>• Engagement with the relevant regulator, the Department of Lands (for the DBNGP corridor) and relevant pipeline owner/operators.</li> <li>• Location of all pipelines to be shown on maps.</li> <li>• Policy measures likely to be applicable at later stages of the planning process to be acknowledged in supporting documentation.</li> </ul>
<b>PLANNING SCHEMES and STRUCTURE PLANS</b>		
Region schemes and amendments Improvement schemes and plans Local planning schemes and amendments Structure plans	<ul style="list-style-type: none"> <li>• Designation of zones and reservations appropriately based on advice from pipeline owner/operators about required setbacks and/or risk mitigation measures.</li> <li>• Acknowledgement of the policy measures likely to be applicable at later stages of the planning process.</li> </ul>	<ul style="list-style-type: none"> <li>• Engagement with relevant regulator, the Department of Lands (for the DBNGP corridor) and relevant pipeline owner/operators.</li> <li>• Consultation with the pipeline owner/operator to define setbacks and/or identify risk mitigation measures likely to be required at later stages of the planning process.</li> <li>• Policy measures likely to be applicable at later stages of the planning process to be acknowledged in supporting documentation.</li> </ul>
<b>SUBDIVISION and DEVELOPMENT</b>		
Subdivision and development	Ensure that the proposal would not result in an increased risk to the integrity of the pipeline through the identification, evaluation and implementation of mitigation measures.	<ul style="list-style-type: none"> <li>• Where subdivision or development is proposed within a setback, on land for which risk mitigation measures are required, or on land intersected by a pipeline, a Pipeline Risk Management Plan (PRMP) prepared in accordance with the DC 4.3 Guidelines to be provided. Conditions to be used to ensure that proponents implement the mitigation measures specified in the PRMP.</li> <li>• For proposals with implications for land within the DBNGP corridor, unless the Department of Lands advises otherwise, Section 41 approval to be obtained ahead of approval being granted by the planning decision-maker.</li> </ul>

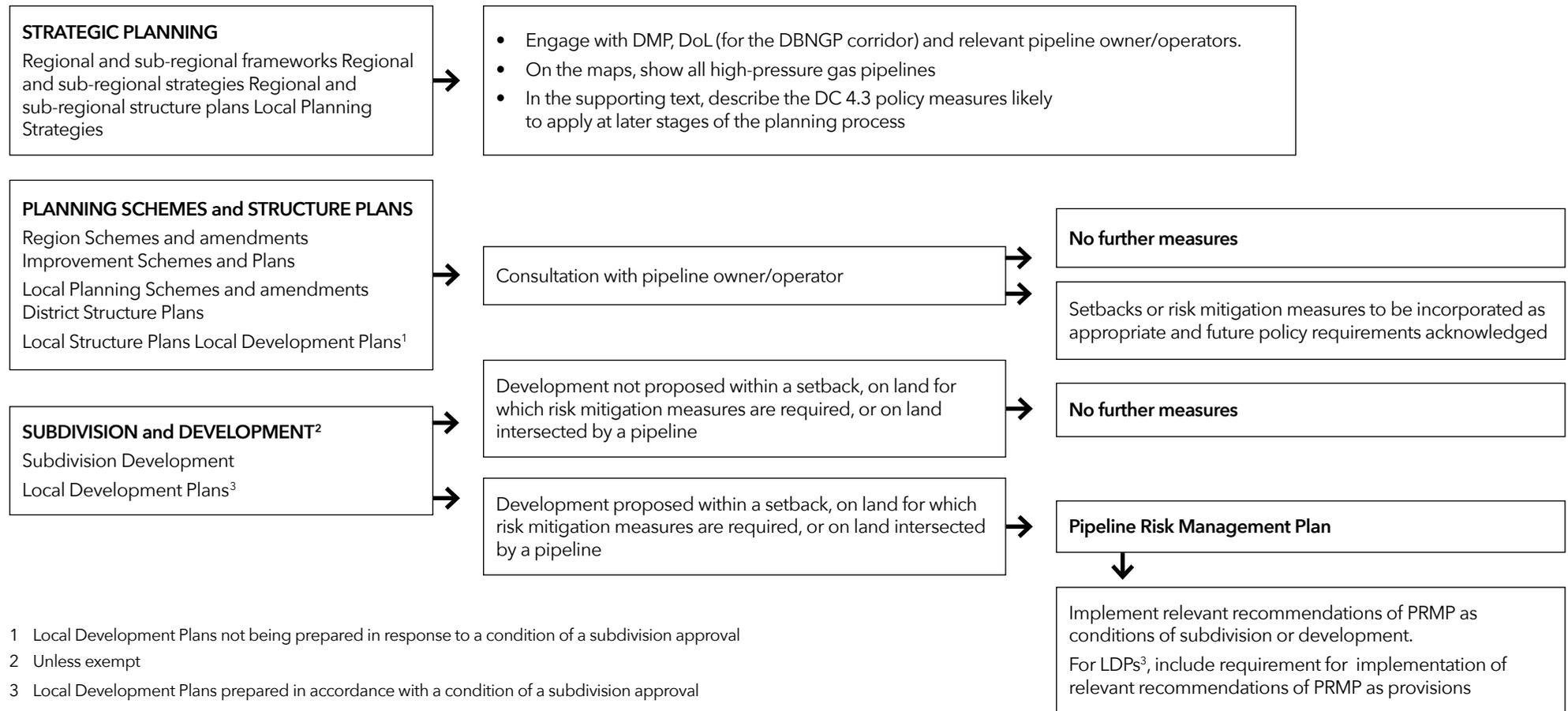


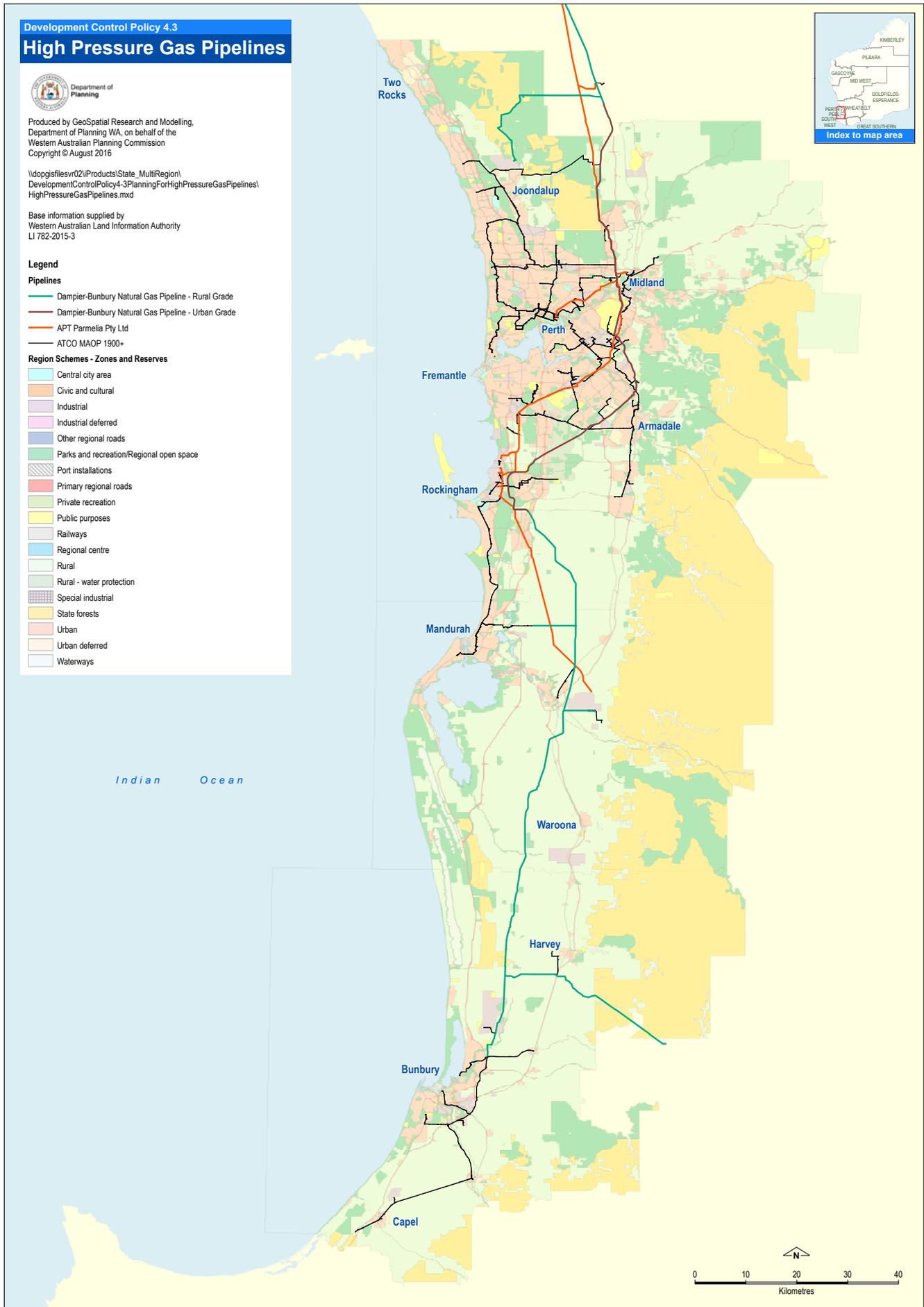
## Guidelines

### Does DC 4.3 apply?

DC 4.3 applies to all planning proposals for land within the trigger distance of a high-pressure gas pipeline unless the proposal is a subdivision or development application for land not intersected by a pipeline and not zoned for a 'Sensitive', 'Industrial', 'Heavy Industrial' or 'Common Infrastructure Corridor' purpose.

### Where DC 4.3 applies, which measures apply at which stage of the planning process?







- Planning for High-Pressure Gas Pipelines

