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27 October 2008

Department of Planning
PO Box 39
SYDNEY NSW 2001

Attn: Dinuka McKenzie

Your Ref: S06/00901

Our Ref: 08/9717

Dear Sir/Madam

Proposed Queensland – Hunter Gas Pipeline (Major Project Application: 06_0286)

I refer to your letter to The General Manager, Department of Lands received 22 September 2008 inviting the Department's comments on the above matter.

The Department of Lands is responsible for the State's Crown land and Crown roads, mainly under the *Crown Lands Act 1989* and *Roads Act 1993*. Central to this are the *Crown Lands Act's* Objects and Principles of Crown Land Management, which articulates multiple objectives for Crown land and the importance of appropriate assessment, allocation, use and management.

The following observations are made in regard to the Environmental Assessment documentation.

- The proponent has lodged a concept plan application and seeks an approval with no further project assessment of any particular stages pursuant to s75P(1)(c) of the *Environmental Planning and Assessment Act 1979*. This is of particular concern to Lands given the lack of property identification information submitted with the concept plan application and it is unclear how a proper project approval could be granted at this stage when the affected property parcels cannot be identified.
- The Department of Lands is not identified in relevant sections as a statutory body or government stakeholder. This is despite the fact that the environmental consultants contacted the Department by way of letter in January 2008 requesting input from the Department into the environmental assessment process. It should also be noted that to date the environmental consultants have not provided the additional information requested by the Department (property identification details) in response to their January 2008 letter.
- The route selection process identifies a preferred 200m wide corridor being the study area from which a final pipeline alignment may be selected.
- The overall design principles are to avoid known sensitive areas with a preference for locating the pipeline in disturbed private agricultural lands.
- In situations where there are no alternative route options, reference is made to aligning the pipeline within Travelling Stock Reserves. However, this is not the only form of Crown land that may be affected, which includes Crown roads.

- Following development approval, on relevant lands authorisation under the *Crown Lands Act 1989* will be required, in this case via acquisition of easements.

The Department in principle supports the provision of essential infrastructure. However, Crown land has not been specifically identified along the preferred 200m wide route corridor. The Department therefore has been unable to assess the proposal's impacts on Crown land and particularly to ensure that impacts on the environmental, social and commercial values of Crown reserves are minimised to the extent possible.

There are a range of Crown Lands issues that need to be addressed, including; approvals under the *Crown lands Act 1989*, appropriate compensation negotiated pursuant to Just Terms legislation, identifying and processing Aboriginal Land Claims and identifying and addressing Native Title interests; site rehabilitation, bushfire asset protection, access management and biodiversity offsets.

Additional Information Required

The Department raises serious concerns to the proponent's request that the concept plan be approved pursuant to *s75P(1)(c) of the EPA Act* with no further project approvals required. It is requested that further detailed information be provided by the proponent in relation to the following issues prior to the assessment being finalised and any approval being granted:

1. The precise location of the pipeline within the 200m wide study corridor needs to be provided. All affected Crown lands must be identified, including Crown reserves, Crown roads, travelling stock reserves and any other Crown land that the pipeline is proposed to occupy.
2. Separate approval for occupation of any Crown land will be required under the provisions of the *Crown Lands Act 1989*. Arrangements are to be made to acquire the necessary easements with the local office of the Department of Lands well prior to any works being carried out, to provide sufficient time for other legislative processes to be carried out (Native Title and Aboriginal Land Claim investigations, land assessment processes and the like). Additionally, temporary occupation of Crown lands outside proposed easements for construction compounds, stockpiles and the like will also require an appropriate *Crown Lands Act* tenure, subject to the same processes.
3. Details of the proposed ameliorative measures during works and post construction to safeguard the environment on Crown lands are required by the Department of Lands to properly consider the proposal and assess the extent of environmental impacts of the proposal on Crown land.
4. The extent of clearing of native vegetation on Crown land for the pipeline is to be quantified, and should be limited to the absolute minimum required for constructing the pipeline. This should be achieved by both location of the pipeline in previously cleared areas wherever possible and, where clearing cannot be avoided, a minimal width clearing corridor. Consideration should be given to some form of biodiversity offset where clearing can not be avoided.
5. Endangered Ecological Communities and critical habitat areas are to be identified and avoided wherever possible by amending the route accordingly. It should be noted that approvals under other legislation may be required if these areas are proposed to be affected.
6. Details of soil erosion and sedimentation control measures are to be provided to enable the Department to assess whether they are appropriate and sufficient.

7. Details of measures used to separate construction areas from publicly accessible areas of Crown land and the length of time these measures are proposed to be installed.
8. Utility easements are sites of frequent rubbish dumping, illegal trail bike riding, damaging 4WD use and bushfire ignition points. Therefore consideration must be given to installing long term access management measures (fences, gates and barriers) at all pipeline entry points. Details of these measures are to be provided to enable the Department to consider their appropriateness.
9. Reserve Trusts, Rural Lands Protection Boards and other significant Crown land stakeholders have considerable interest in Crown land and are active managers of Crown land. Where the pipeline will affect such land, these groups must be specifically consulted by the proponent prior to any works and/or acquisition of easements.

Requested conditions of approval

The Department of Lands requests that should this application be approved, the following issues must be addressed by way of appropriate conditions of approval being imposed:

1. Separate approval is required under the provisions of the *Crown Lands Act 1989* for the occupation of any affected Crown lands. Arrangements are to be made to acquire the necessary easements with the local office of the Department of Lands prior to any works being carried out on Crown land.
2. Ameliorative measures during works and post construction to safeguard the environment on Crown lands must be installed prior to construction of works and maintained during the construction and operation phase of the pipeline. All costs associated with this are to be borne by the proponent.
3. Clearing of native vegetation be limited to the absolute minimum required for constructing the pipeline. This should be achieved by both location of the pipeline in previously cleared areas wherever possible and, where clearing cannot be avoided, a minimal width clearing corridor.
4. Some form of biodiversity offset should be imposed where clearing can not be avoided.
5. Endangered Ecological Communities and critical habitat areas are to be avoided wherever possible.
6. Best practice soil erosion and sedimentation control measures are to be implemented during construction works and during the operation phase.
7. Appropriate measures are to be installed to separate construction areas from publicly accessible areas.
8. Long term access management measures (fences, gates and barriers) must be installed at all pipeline entry points to minimise the opportunity of utility easements being utilised for illegal rubbish dumping, illegal trail bike riding, damaging 4WD use and bushfire ignition points.
9. Temporary occupation of Crown lands outside proposed easements for construction compounds, stockpiles and the like will require an appropriate tenure under the provisions of the *Crown Lands Act 1989*.

Should assistance be required in identifying land status or Crown lands, the Department would be able to provide further information on a fee for service basis.

If you require any further assistance in the meantime, please contact either myself on 02 4920 5063 or:

- Crown Lands Division Central Coast Hunter Region (i.e. south of Murrurundi); Program Manager Land Management, Mr Anthony Signor. Ph; 02 4937 9332 email: anthony.signor@lands.nsw.gov.au
- Central Region (north of Murrurundi) Program Manager Land Management, Mr Rod O'Brien. Ph; 02 6770 3101; email: rodney.obrien@lands.nsw.gov.au

Yours sincerely



Adrian Harte
Director Land Management
Department of Lands
Crown Lands Division
Deputy Commissioner Soil Conservation Service NSW