



9th September

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 Affordable Housing Assessments
 Department of Planning, Housing and Infrastructure
 4 Parramatta Square, 12 Darcy Street Parramatta NSW 2150

By Email: andy.nixey@planning.nsw.gov.au

Dear Andy,

Viva Energy Objection to State Significant Development Application SSD-71558962 (“Application”) for Mixed Use Precinct at Wharf Road & Waratah Street Melrose Park
Location: 112 Wharf Road and 30 & 32 Waratah Street, Melrose Park (“Property”)

Viva Energy Australia (Viva Energy), is one of Australia’s leading energy companies that operates various major hazard facilities and high-pressured pipelines in New South Wales and interstate.

Viva Energy wishes to lodge an objection to **State Significant Development Application SSD-71558962** (**‘Application’**) and to provide information which we request is taken into consideration in assessing/determining the Application, including pursuant to section 2.77(1)(d) of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* (**‘SEPP’**).

The key issues Viva Energy wishes the consent authority to consider as part of this objection are as follows:

1. The works create a significant land use change and intensification of risk and are in very close proximity to the Gore Bay Oil Pipeline owned and operated by Viva Energy (**‘Pipeline’**).
2. The Pipeline operates 24 hours per day, 365 days a year and is part of critical State infrastructure.
3. The maximum allowable operating pressure (**‘MAOP’**) for the Pipeline is 6,900 kPa, or put in layman’s terms, 69 times the standard atmospheric pressure. Operating at that MAOP, any damage to the Pipeline from a rupture event has the potential to result in a hazardous situation, including fire or explosion, causing high risk to life and property,
4. Viva Energy manages these potential risks through a number of measures, including:
 - Designing and operating the Pipeline in a manner that complies with the *Pipelines Act 1967 (NSW)* (**‘Pipelines Act’**) and the *Pipelines Regulations 2017 (NSW)*.
 - Those regulations require that all pipelines are operated and maintained in accordance with the *Australian Standard AS2885: Pipelines – Gas and Liquid Petroleum* (**‘AS2885’**).
 - Both the Pipelines Act and AS2885, in turn, contain a number of regulatory restrictions on building and construction activities on land adjacent to pipelines, digging near pipelines and the obstruction of pipeline operations.
 - In particular, Viva Energy is required to take steps to prevent any new development proximate to the Pipeline which threatens to change the land use classification zone to a ‘sensitive’ use or to otherwise increase the population density of the area, without first undertaking a Safety Management Study (**‘SMS’**). This is to confirm that the risk is acceptable and that appropriate measures have been implemented to reduce the risk as low as is reasonably practicable (**‘ALARP’**). The SMS process requires developer participation and seeks to address the issue of encroachment by new development on existing critical infrastructure and services.



5. With the above obligations and risks in mind, you will understand why Viva Energy has real and genuine concerns with this Application. For the reasons outlined below, Viva Energy requires more time to engage with the Applicant to consider the potential impact/s of the proposal. This should be done before a decision on the Application can be made, with the opportunity for further feedback to be provided to Council by Viva Energy.

6. The Application fails to identify and have proper regard to the potential risks posed to the Pipeline, due to its proximity to the proposed development.

7. The Applicant has not engaged with Viva Energy in the preparation of an SMS, in accordance with the requirements of AS2885. This should be completed as a matter of priority, to properly identify and assess the risks of the proposed development, which could include:

- fire or explosion;
- injury to adjacent occupants;
- property damage;
- impacts to the environment, including oil loss etc; and
- disruption to New South Wales' fuel supply.

8. Where there is a proposal to change land use or classification around high pressure pipelines, certain obligations in section 2.4 of AS2885 are triggered, notably:

- Pipeline corridors are allocated location classes that are representative of risks to people, property and the environment, and threats to pipeline integrity.
- Where land use through which the pipeline corridor passes is proposed to be re-classified as a "sensitive use" within the pipeline measurement length, a safety assessment shall also be undertaken and additional control measures implemented until it is demonstrated that the risk from a loss of containment involving rupture is ALARP (per AS2885.6 2018 4.2).
- Sensitive Use typically, under AS2885.6- 2018, includes high density residential, shopping precincts, childcare centres, schools, hospitals, aged care facilities and prisons.

9. As State Planning Authorities are aware, there are specific obligations in section 2.77 of the new SEPP that need to be considered / addressed before an application for development adjacent to land in a pipeline corridor can be determined.

The Application relates to development adjacent to land in a 'pipeline corridor' because under clause 2.77(2) of the SEPP, land is deemed to be adjacent to a pipeline corridor if the land is located:

- a) within the licence area of a pipeline for gas, or for petroleum or other liquid fuels, licensed under the Pipelines Act; or
- b) within 20m of the centreline (measured radially) of a relevant pipeline, or
- c) within 20m of land the subject of an easement for a relevant pipeline.

10. Given that the Application being discussed in this objection is for development adjacent to land in a pipeline corridor (as discussed above), then the consent authority is required by section 2.77(1) to undertake the following:

Clause	Requirement	Viva Energy's Comment
2.77(a)	First, the consent authority must be satisfied that the potential safety risks, or risks to the integrity of the pipeline, that are associated with the development to which the Application relates, have been identified.	Viva Energy submits that the consent authority cannot possibly satisfy itself that the potential safety and other risks related to the Pipeline have been identified and addressed on the basis of the Application being made. The discussion of risk is conveniently limited and Viva Energy has not been consulted on these issues in any meaningful way.
2.77(b)	Second, once identified pursuant to clause 2.77(a), Planning Authority must take those risks into consideration when deciding the Application.	Viva Energy submits that, at this time, the consent authority is precluded from taking these issues into consideration because it has not been provided with a comprehensive risk assessment for the development.
2.77(c)	Written notice of the Application must be given to Viva Energy as the Pipeline operator.	Viva Energy was not notified of the Exhibition of the proposal.



2.77(d)	The consent authority must take into consideration any response from Viva Energy in deciding the Application.	This is the response from Viva Energy, which we request the consent authority takes into consideration in assessing the Application. We note that Viva Energy requests a further opportunity to be heard in relation to the Application given the matters outlined above.
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11. The Quantitative Risk Assessment (QRA) conducted is not a valid assessment as the pipeline expertise from Viva Energy was not present or had any input into the assessment. In addition, the change of residential yield from the scope of the initial QRA to the proposed design renders the QRA inadequate.

Conclusion

Furthermore, we request that Viva Energy be given further opportunities to consult with the Applicant and the consent authority in relation to the Application, by virtue of its position as recognised by the Pipelines Act, AS2885 and the SEPP.

To the extent that further consultation is not possible. We strongly encourage the consent authority to refuse the Application. As it stands, the Application does not provide the consent authority with information it would require to reasonably satisfy itself (for the purposes of section 2.77 of the SEPP) that the potential safety risks to the integrity of the Pipeline, associated with the proposed development, have been identified, such that they can be taken into consideration in making a determination on the development application.

Should you wish to further discuss, please do not hesitate to contact me directly at SAL-NPT-Pipelines@vivaenergy.com.au

Yours Sincerely

A handwritten signature in black ink, appearing to read "AJ" with a long horizontal stroke extending to the left.

Anthony Jones
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