

5 February 2013

Submission No. 74

11.1.14

12 February 2014

The Hon David Gibson MP
State Development, Infrastructure and Industry Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Gibson

Regional Planning Interests Bill 2013

APA Group (**APA**) welcomes the opportunity to make a submission to the State Development, Infrastructure and Industry Committee inquiry into the *Regional Planning Interests Bill 2013* (the **Bill**).

APA's operations

APA is a major ASX-listed energy infrastructure business, owning and/or operating over \$12 billion of assets, including significant gas transmission and distribution assets. In Queensland, APA owns and operates four gas transmission pipelines, comprising the Roma to Brisbane Pipeline (**RBP**), the South West Queensland Pipeline (**SWQP**), the Carpentaria Gas Pipeline (**CGP**) and the Berwyndale Wallumbilla Pipeline (**BWP**) which deliver gas to power stations, industrial users and residential customers. APA also has an ownership in, and operates, the Envestra and GDI Allgas gas distribution networks, which have approximately 25,000 kilometres of gas mains and approximately 180,000 gas consumer connections in Queensland.

APA's response to the Bill

APA appreciates and understands the Queensland Government must take measures to address critical issues affecting the State's regions. APA is accordingly generally supportive of the Bill and what it seeks to achieve. APA is however, strongly of the view that the Bill has a number of unintended significant and serious effects, principally comprising the Bill's purported effect to de-authorise previously authorised activities. This restriction on previously approved activities will likely impose significant risk, cost and uncertainty on APA, Envestra and GDI Allgas and may require the cessation of operation of those assets to the extent that they traverse areas of regional interest, if the Bill passes into law unamended. The flow on effect would have a severe and disastrous impact on the Queensland economy due to the cessation of gas supply to commercial, industrial and residential users of gas and would be contradictory to the purpose and certainty which other legislation governing operations provides. This would seem to be an incongruous effect which APA considers is unintended by the drafters of the Bill.

While APA has other concerns about the Bill including, amongst other things, elements of the process for authorisation, APA seeks to limit its comments in this submission to the Bill's application to APA only.

The Bill's impact on APA

APA's pipeline assets in Queensland are generally governed by the *Petroleum and Gas (Production and Safety) Act 2004* (**P&G Act**). As you are aware, the P&G Act regulates the technical and safety aspects of gas production, transmission, distribution and use and deals with licensing of gas transmission pipelines. Pursuant to the P&G Act, APA has been granted pipeline licences to own and operate its pipelines through the relevant parts of Queensland and relies on such express authority to continue to operate its pipelines. The Bill appears to remove this right by requiring APA, Envestra and GDI Allgas to reapply for an authority to operate its assets in areas of regional interest if it does not fall within an exemption. This presumably can only be an unintended effect of the drafting of the Bill. Relevantly, APA notes section 56 of the Bill which provides that if there is any

inconsistency between the conditions of a regional interests authority and a condition of the relevant authority, the conditions of the regional interests authority prevail to the extent of the inconsistency.

Should the Bill pass into law unamended on APA's current interpretation, it may mean that APA would have to cease providing gas through its four gas transmission pipelines and the distribution networks it operates, thereby cutting supply of gas to all users throughout South East Queensland, Mt Isa and regional cities serviced by the Envestra and GDI Allgas networks. To continue operating these assets and delivering gas to gas users would place these companies in breach of the Bill. The attached map is provided to illustrate one area of concern to APA and highlights where the RBP traverses priority living areas and priority agriculture areas on the Darling Downs. It would be impractical to attach to this letter maps showing areas of concern on all of the assets owned by APA, Envestra and GDI Allgas.

The following comprises APA's interpretation of the Bill and its application to APA, Envestra and GDI Allgas.

1. Clause 18 of the Bill establishes that it is unlawful for a person to wilfully carry out, or allow the carrying out of, a resource activity or regulated activity in an area of regional interest unless the person holds, or is acting under a regional interests authority for the activity. APA considers it is captured by this clause given the following:
 - a. Clause 12(2) defines a *resource activity* as an activity for which a resource authority is required to lawfully carry out; or for a provision about a resource authority or proposed resource authority – an authorised activity for the authority or proposed authority (if granted) under the relevant resource Act;
 - b. APA carries out a resource activity in so far as it is a holder of a petroleum authority under the P&G Act (section 13(e) of the Bill). Section 18 of the P&G Act provides that a pipeline licence is a petroleum authority;
 - c. given APA is required to hold resource authorities for the operation of its pipeline assets, APA carries out resource activities; and
 - d. APA carries out resource activities in areas of regional interests in so far as its pipelines and distribution networks impose on, or have the potential to impose on, priority agricultural areas and priority living areas (at the very least) as defined in the Bill.

2. Division 2 of the Bill sets out those resource activities which are exempt from requiring a regional interests authority. APA is supportive of Government's intention to exempt existing approved activities but does strongly consider that the exemptions do not go far enough and create uncertainty in respect of their application and despite section 56 of the Bill, create uncertainty as to how the Bill sits with APA's pipeline licences and other statutory approvals. On APA's interpretation of the Bill, its pipeline activities do not appear to fall within any of the exemptions, even though they are currently authorised through other legislation and have been for some time. The following comprises APA's analysis in respect of the exemptions:
 - a. There are significant uncertainties in respect of the application of the land owner exemption (section 22) in so far as it applies only to priority agricultural areas and APA's assets traverse into priority living areas. In addition, while APA does have conduct and compensation agreements with many landholders in Queensland, where APA does not, APA cannot be certain that its activities will not have an impact or significant impact on the priority agricultural area given the term "impact" is so broadly defined;
 - b. The section 24 exemption provides that a resource activity is an exempt resource activity for an area of regional interest if the activity is being carried out on land in the area and in accordance with a resource activity work plan and the land was not in an area of regional interest when the resource activity work plan took effect. Again, this exemption appears to have significant limitations in so far as the exemption only applies to those activities which have a resource activity work plan in place and section 24(3) which sets out what constitutes a resource activity work plan, does not seem to be relevant to APA's activities. In addition, under the P&G Act, there is no express requirement for APA to have a resource activity work plan in place as a condition of its pipeline licence. As a result, it is

extremely unclear whether APA falls within this exemption and therefore whether APA is at risk of being in breach of the legislation (failing application for a regional interests authority for its pipelines operations).

- c. The exemptions provided for in sections 23 and 25 are not applicable to APA. APA consequently chooses not to comment in respect of those sections.

Part 3 of the Bill stipulates the process through which a Regional Interests Authority is obtained. There would be significant risk for APA, Envestra and GDI Allgas that it would not be possible to obtain such an authority prior to the Bill being promulgated and therefore it being necessary to cease operation of our assets. This would have the flow on effect of creating uncertainty in both gas supply and investment, amongst other things.

APA's requested amendments to the Bill

As currently drafted, the Bill does not appear to contain significantly broad transitional arrangements to allow existing and approved activities to continue. Given the potential consequences of the uncertainties of the Bill, APA considers it is everyone's interest to clarify the Bill to create as much certainty as possible. APA suggests the following amendments be made to the Bill:

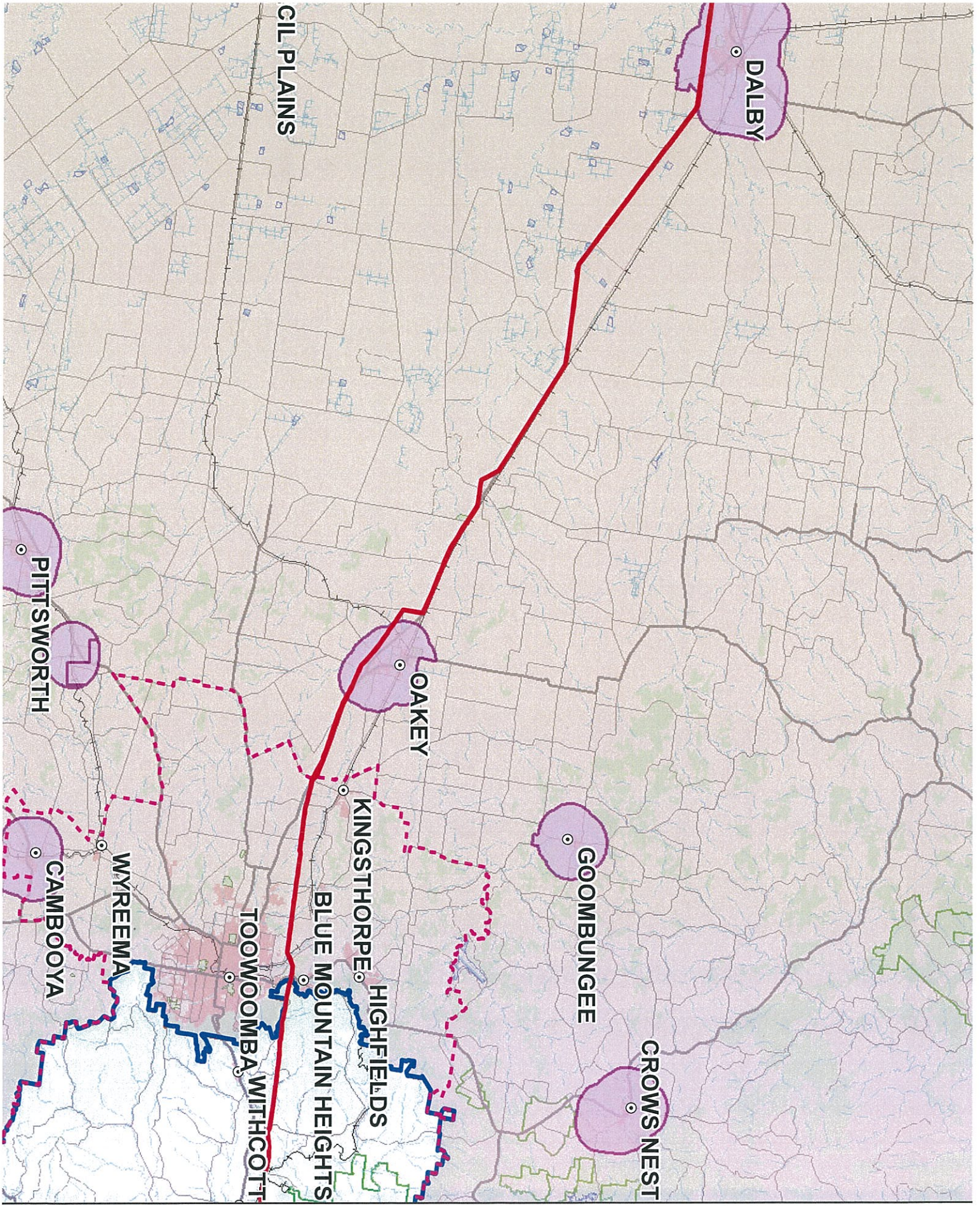
- Section 22 – the section as drafted is currently limited to land in a priority agricultural area only. APA considers that the exemption in clause 22 should apply to all areas of regional interest in order to provide consistency, clarity and certainty. In addition, the concept of “impact” on land should be more clearly defined pending consultation with land owners and other stakeholders;
- Section 24 – the exemption should be extended to all activities which have been authorised under an existing resource authority with no requirement for a resource activity work plan. This would be more appropriate and permit certainty and consistency in respect of current and ongoing operations. It would seem an inappropriate effect of the Bill that already authorised activities require further authorisation to continue.

Thank you for the opportunity to comment in relation to this Bill. Please contact me on (07) 3323 6024 should you like further information on this submission.

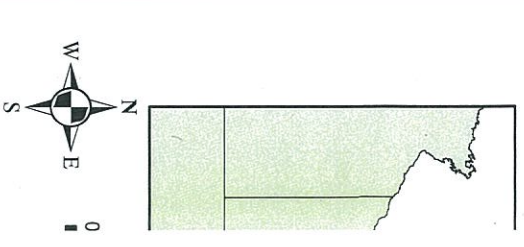
Yours sincerely



Rod J Johannessen
General Manager Strategy and Service Delivery



- Priority Living Area
- Priority Agriculture
- Towns
- Highway
- Dual Carriageway
- Secondary Road
- Minor Road
- Track
- Railway
- Canal



RoI
 Darling Downs P
 DATE: 05FEB2014
 VERSION: 2
 DATA SOURCES: AP/PA Group,
 © The State of Queensland (Del
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 Coordinate System: GCS G