

Building near pipelines: restrictions and responsibilities

Gas and pipeline infrastructure safety
guidelines

This guideline has been endorsed by the General Manager, Regulatory Operations, Energy Safe Victoria.

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Who we are

At Energy Safe Victoria we work to keep Victoria energy safe.

We regulate the energy industry and sector to ensure generation, supply and usage uphold safety standards and engage with the community to raise awareness of energy safety risks.

In everything we do, we strive to deliver on our purpose to keep Victoria energy safe. Always.

More information is available on our website: www.energysafe.vic.gov.au

1 The 3 metre zone

This guideline details the requirements and responsibilities when proposing to construct a building within 3 metres of a pipeline. Under Section 120 of *Pipelines Act 2005*, it is an offence to construct a building within 3 metres of a pipeline (the 3 metre zone) without the Minister's consent. If a building is constructed within 3 metres of a pipeline without Ministerial consent, the Minister may hold a hearing to determine whether the building should be demolished.

1.1 How is the 3 metre zone applied?

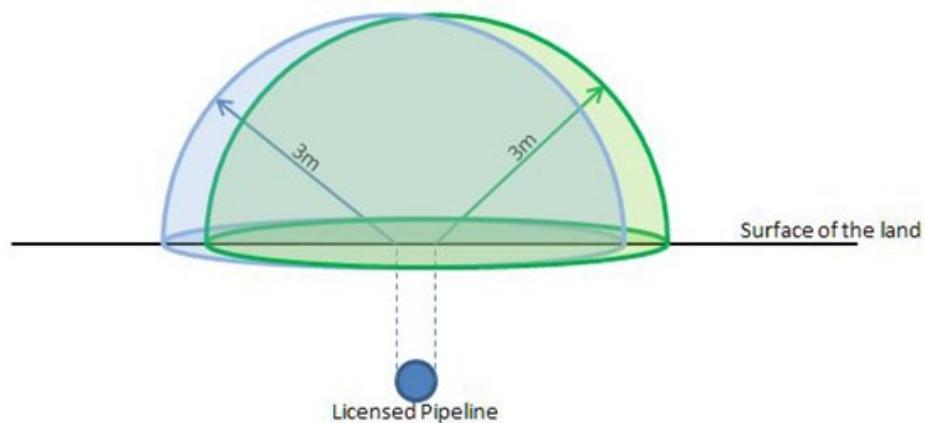
The 3 metre zone is defined as:

3 metres from a point on the surface of the land whose position is vertically above a part of a pipeline below the surface

This zone is identified by a hemispherical envelope above a pipeline (represented by the shaded area in Figure 1).

Any proposed building or part of a building located within this zone will require Ministerial consent before work may commence.

Figure 1: The 3 metre zone



1.2 How are the words 'construct' and 'building' defined?

The words 'building' and 'construct' have the meaning given in the *Building Act 1993*.

See 'Section 2 - Applicable acts and definitions' for more information.

1.3 What is required when applying for Ministerial consent?

An application for Ministerial consent to construct a building within the 3 metre zone should demonstrate that:

- the building does not impede the working of or endanger the pipeline
- all risks have been identified and controlled as far as reasonably practicable.

To meet these requirements, an application for Ministerial consent should include evidence of the following:

1. Contact with the relevant pipeline licensee/s identified by a Before You Dig Australia (BYDA) enquiry, which is required to discuss the proposal and check if any specific conditions or requirements need to be met to obtain consent. (Conditions and requirements may vary, depending on the risks to pipelines, which can differ depending on pipeline specifications and operational parameters, so it is especially important to ensure all pipeline licensees have been contacted.)
2. A ‘No Objection’ letter or email from all relevant pipeline licensees, and further evidence that any and all conditions and requirements raised by these communications have been met.

Once these requirements have been met, submit a completed ‘Application for Ministerial Consent: Building within 3 Metres of a Licensed Pipeline’ to the General Manager, Regulatory Operations.

Application forms can be found on our website at:

<https://www.energysafe.vic.gov.au/industry-guidance/gas/infrastructure-and-pipelines/gas-pipeline-and-infrastructure-safety>.

1.4 Pipeline licensee responsibilities

It is a pipeline licensee’s responsibility to ensure that:

- a risk assessment and risk mitigation process is implemented for the safe operation of a pipeline
- the building does not impede the working of or endanger a pipeline and that all risks have been identified and controlled as far as reasonably practicable.

To meet this responsibility, pipeline licensees should consider conducting the following due diligence before issuing a “No Objection” letter or email concerning building work within the 3 metre zone:

- Assess the scope of works and supporting documents including drawings. Also consider reviewing (where applicable) any site surveys, soil testing, external loading due to static or moving equipment/machinery, vibration analysis, etc.
- Use the risk assessment process/methodology defined in AS/NZS 2885.6 “Pipeline safety management” to identify potential risks to the pipeline’s integrity and its ongoing operation and maintenance (demonstrating that adequate mitigation controls are in place to ensure all risks are being managed as far as reasonably practicable).
- Establish whether third party liaison or stakeholder engagement is required to further control and mitigate the identified risks.
- Ensure that the risk assessment has:
 - addressed all identified threats
 - closed out any action items.
- Ensure the “No Objection” letter or email is issued by an authorised person.

2 Applicable acts and definitions

2.1 Pipeline Act 2005, Section 120

Pipelines Act 2005, Section 120 Restriction on building on land near pipeline relevantly provides:

- (1) A person must not construct a building so that any part of it is situated less than 3 metres from a point on the surface of the land whose position is vertically above a part of a pipeline below the surface unless the Minister has first consented to that construction.
- ...
- (6) In this section building and construct have the meanings respectively that they have in the Building Act 1993.

2.2 Building Act 1993

A ‘building’ and the term “construct” are defined and governed by the Building Act 1993. They are classified under the Building Code of Australia (which forms part of the National Construction Code).

The *Building Act 1993*, Part 1, Section 3(1) relevantly defines the following terms:

- **building** includes structure, temporary building, temporary structure and any part of a building or structure.”
- **construct**, in relation to a building, includes –
 - a) build, re-build, erect or re-erect the building; and
 - b) repair the building; and
 - c) make alterations to the building; and
 - d) enlarge or extend the building; and
 - e) place or relocate the building on land.
- **temporary structure** includes—
 - (a) a booth, tent, marquee or other temporary enclosure, whether or not a part of the booth, tent, marquee or enclosure is permanent; or
 - (b) a seating structure whether enclosed or not, including a mobile seating structure.

2.3 Building Code of Australia

‘Building Code of Australia’ means the Building Code of Australia comprising Volume One and Two of the National Construction Code. The building types are classified from class 1 to class 10.