

Building Near Pipelines: Restrictions and Responsibilities

Gas and Pipeline Infrastructure Safety
Guidelines

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This guideline has been endorsed by the General Manager, Gas and Pipeline Safety Technical Regulator, Energy Safe Victoria.

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Who we are

We are Victoria's safety regulator for electricity, gas and pipelines.

Our role is to ensure that Victorian gas and electricity industries are safe and meet community expectations. We are also responsible for licensing and registering electricians, and educating the community about energy safety.

More information is available on the Energy Safe Victoria website: www.esv.vic.gov.au

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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?

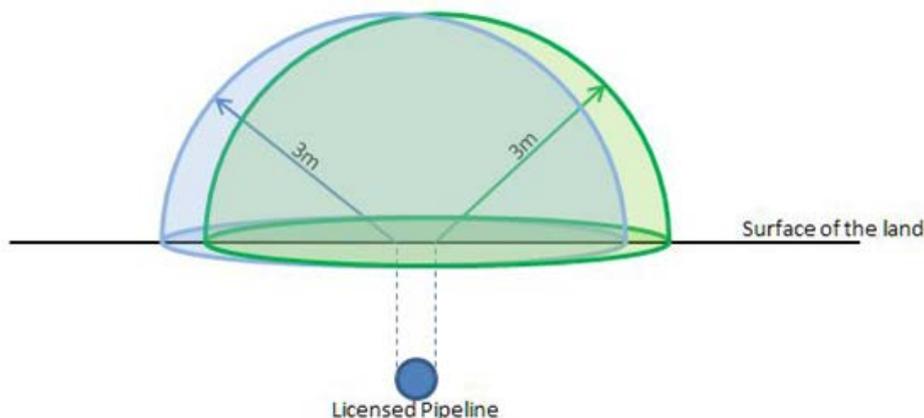
The 3 metre zone is defined as:

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?

'Construct' and 'building' are defined under the Building Act 1993. Building is also classified under the Building Code of Australia (which forms part of the National Construction Code).

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 must meet several requirements to ensure that:

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

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

1. Contact with the relevant pipeline licensee/s identified by a Dial Before You Dig (DBYD) 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, Gas and Pipeline Safety Technical Regulation.

Application forms can be found on the ESV website at:

<https://esv.vic.gov.au/pdfs/application-for-ministerial-consent/>

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
- building does not impede or endanger a pipeline and that all risks have been identified and controlled to 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 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 in accordance with the licensee's approval matrix.

2 Applicable acts and definitions

2.1 Pipeline Act 2005, Section 120

Restriction on building on land near pipeline:

(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.

2.2 Building Act 1993

A 'building' is defined and governed by the Building Act 1993 and classified under the Building Code of Australia (which forms part of the National Construction Code).

Building Act 1993, Part 1, Section 3(1) definition of "building" states:

- "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;

2.3 Building Code of Australia

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