

## **Guidelines for Gas Infrastructure Work on Publicly Controlled Places**

### ***Gas Supply Act 2003***

Chapter 2 Part 2 of the *Gas Supply Act 2003* ('the Act') sets out the processes by which a natural gas or LPG distributor is able to install, operate or maintain gas infrastructure on a publicly controlled place. The following is a summary only and should be read in conjunction with, and subject to, the relevant sections of the Act.

Under the Act—

- 'gas infrastructure' is the whole or part of a natural gas distribution pipeline or system subject to a distribution authority, or an LPG distribution pipeline or system;
- 'gas infrastructure work' is the installation, operation, maintenance, repair, alteration or removal of gas infrastructure;
- a 'publicly controlled place' is a State controlled road or another place for which a public entity is responsible that the public is entitled to use or is open to members of the public. However a publically controlled place does not include busway land, light rail land, a railway or rail corridor land under the *Transport Infrastructure Act 1994*;
- the 'public entity' for a publicly controlled place is the government entity under the *Government Owned Corporations Act 1993* or the local government that is immediately and primarily responsible for the place.

#### Carrying out gas infrastructure work on publicly controlled places (sections 78 to 81 of Act)

A distributor may carry out gas infrastructure work on a publicly controlled place only if—

- the public entity has given written approval; or
- because it is an emergency (in which case the distributor must notify the public entity of the work as soon as practicable).

A distributor may apply in writing to the relevant public entity for approval to carry out gas infrastructure work and the application should contain the following information:

- a description of the work and how it is to be carried out;
- where the work is to be carried out; and
- other relevant information, reasonably required by the public entity.

The public entity must decide, within 30 business days of receiving the information mentioned above, whether to grant or refuse approval to carry out the gas infrastructure work. The public entity must not unreasonably refuse to grant approval.

However, the public entity may impose conditions on the approval it considers reasonable. The Act provides an example of a reasonable condition which could be imposed by a public

entity, which relates to timing of the gas infrastructure work to minimise interference with public access to the place.

#### Obligations on distributor in carrying out work (sections 82 to 86 of Act)

The Act places a number of obligations on a distributor carrying out gas infrastructure work on a publicly controlled place, such as:

- using appropriate barricades, signs and lights to safeguard the public;
- completion of the work as soon as practicable;
- restoration, as nearly as practicable, of the place to the condition it was in before the work started;
- removal of any rubbish or surplus earth caused by the work;
- compliance with any conditions imposed by the public entity;
- fixing, as soon as practicable, any damage the distributor may have caused to the place; and
- if the ground was opened or broken up by the distributor, maintenance of the place for at least 3 months to ensure the place remains in good repair and, if there is any subsidence, for up to one year.

#### Work directions by public entity (sections 87 to 89 of Act)

If the public entity reasonably considers a distributor has not carried out work to comply with a condition imposed by the public entity or the distributor's obligations referred to above:

- the public entity may give the distributor a direction to carry out the work;
- the distributor must comply with the work direction to the reasonable satisfaction of the public entity; and
- the distributor must bear the costs of complying with the work direction.

If the distributor does not comply with the work direction, the public entity may carry out the relevant work instead and may recover from the distributor the reasonable cost of carrying out the work.

#### Public entity work likely to affect gas infrastructure (sections 90 to 94 of Act)

If a public entity proposes to do work that is likely to affect the safety, location or operation of gas infrastructure, the public entity must:

- first give the distributor notice of the proposed public entity work;
- invite the distributor to make written submissions to the public entity about the proposed public entity work, within a period of not less than 30 business days of the notice; and
- before deciding on the public entity work, consider any written submissions the distributor has given it.

If public entity work requires consequential work to be carried out (such as changing the position of the gas infrastructure or other work in relation to the gas infrastructure):

- the public entity may by notice require the distributor to perform the consequential work;
- the distributor must comply with the consequential work requirement to the reasonable satisfaction of the public entity; and

- the public entity must meet the distributor's reasonable costs of complying with the consequential work requirement.

If the distributor does not carry out the consequential work required by the public entity, the public entity may carry out the work instead and bear its own costs.

#### Gas infrastructure interfering with publicly controlled place (sections 95 to 99 of Act)

If, due to an emergency, it is necessary to take remedial action to ensure gas infrastructure ceases to interfere with the use of a publicly controlled place by either the relevant public entity or the public:

- the public entity may by notice require the distributor to take remedial action within a stated reasonable period;
- the distributor must comply with the remedial action notice to the reasonable satisfaction of the public entity; and
- the public entity must meet the distributor's reasonable costs of complying with the remedial action notice.

If the distributor does not carry out the remedial action required by the public entity, the public entity may carry out the remedial action instead and bear its own costs.

#### Resolution of gas infrastructure work disputes (sections 258 to 270 of Act)

If there is a dispute between a distributor and a public entity about gas infrastructure work or proposed gas infrastructure work, either party to the dispute may refer the dispute to the Regulator to mediate. (The Regulator is the Director-General of the Department which administers the Act, i.e. the Department of Energy and Water Supply)

The Regulator may:

- give the parties instructions about procedures they must follow in an attempt to resolve the dispute before the Regulator mediates the dispute;
- engage someone else, other than a court, to help mediate the dispute; or
- decide not to mediate the dispute and refer it to the Governor in Council to decide.

The Regulator also may require the parties to give the Regulator information the Regulator requires to mediate the dispute.

If the Regulator refers the dispute to the Governor in Council, the parties to the dispute must be given opportunity to make submissions which must be taken into account before the Governor in Council decides the dispute. The Governor in Council's decision is binding.