

Western Slopes Pipeline Project

Response to questions from the Chair regarding Easement Agreements

17 April 2018

Question

- 1) What are the principal documents contained within the Option Agreement package provided to landowners?

APA Response

The package being presented by APA contains the following documents:

- Offer letter including summary of the key commercial terms
- Overview of affected property
- Compensation calculation worksheet
- Regional sales analysis (prepared by consultant valuer and used to determine land values applied in compensation calculations)
- Explanatory notes to production loss calculations (prepared by consultant agronomist)
- Copy of title search for affected parcels
- Proposed Pipeline Easement Deed
- Indicative Easement Plans
- General property map

Question

- 2) What is the status of any plan detailing the proposed alignment of the easement within the package? Is it an accurate survey of the alignment within the property and provide certainty for the property owner as to the proposed location of the easement? How does this plan relate to the alignment plan to be contained in the EIS?

APA Response

The easement plan presented with the Pipeline easement deed will be based on the alignment that is in the EIS. The plans have been prepared based on available digital cadastral information and historic title plans and in most instances will not have been informed by definitive on-ground cadastral survey.

The pipeline easement deed will provide flexibility to allow the alignment to move within a nominated investigation area. The investigation area will vary in width up to 100m (within which the nominal 30m wide easement will be located) depending on previous landowner feedback regarding the position of the proposed easement. The plan will also present nominated temporary construction areas directly adjoining the easement where required.

In situations where there is uncertainty regarding the location of cadastral boundaries which cannot be resolved through review of historic title plans APA will request access to undertake a survey to confirm the location of property boundaries and other features.

Question

3) What are the general terms of the Option Agreement (viz, timeline for completion, option fee, adjustments to easement alignment, Option extension/renewal provisions etc).

APA Response

The proposed Pipeline Easement Deed has a 3year initial term with two options for 12 month extensions. An additional fee would be payable if the extensions are taken up.

Question

4) How is the Option Fee determined? What is the range of Option Fees likely to be offered to landowners?

APA Response

The fee offered for entering into the agreement will vary between \$5000 and \$10,000 depending on the number of individual land parcels affected.

Question

5) How has the Compensation Amount for provision of the easement been determined? Who has undertaken the valuation of the subject land and what are the primary considerations in determining the land value? What are the principal components that make up the final Compensation Amount offered to the landowner?

APA Response

The compensation package being offered by APA considers the following:

- The value of the easement based on the prevailing land value at an applicable diminution rate. Land values have been determined based on regional sales analysis undertaken by a consultant valuer.
- Loss of production during construction based on a model for typical enterprises prepared for the project by a consultant agronomist. Production losses are assumed to cover full loss for the year of construction with an allowance for partial losses for a subsequent 12 months as the land rehabilitates and normal vegetation cover establishes.
- Nominal payments for access to temporary construction areas which includes consideration of production losses.
- A discretionary figure applied by APA as compensation for general disturbance arising from the project including the time taken to deal with APA and any broader property impacts.

In addition, APA will meet the reasonable legal and valuation costs incurred in reviewing the proposed easement agreement and compensation offer provided that the landowner has notified us in advance of their nominated provider and had them provide an estimate of their costs to undertake the review which APA has approved.

Question

6) Are there provisions for escalation of the Compensation Amount should the completion of acquisition be delayed? How is this increase in compensation calculated?

APA Response

The proposed easement deed includes a provision for escalation of the compensation based on CPI should the term of the agreement be extended.

Question

- 7) Is a draft Contract of Sale attached to the Option Agreement? If not, what is the process by which acquisition of the easement is to be completed? See below
- 8) How does the Option Agreement relate to the establishment of the easement under the Pipelines Act 1967? Does the totality of the easement need to be registered before authority is issued to proceed with construction of the pipeline?

APA Response

Response to both Q7 and Q8.

The easement deed would become an agreement under the Pipelines Act 1967 allowing the Minister responsible for that act to vest the easement in APA.

Construction of the pipeline cannot proceed until a Pipeline Licence is issued in accordance with Section 14 of the Act. The Pipelines Act requires the Minister to vest the easement in the Licensee as soon as practicable after the granting of the Pipeline Licence.

The terms of the easement that is vested in the Licensee upon acquisition are the terms agreed in the Easement Deed, if the easement deed is agreed with the owner.

Otherwise they would be the terms recorded in the Pipelines Regulation.

Question

- 9) Do the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 become a consideration of the finalisation of the easement acquisition process? If so, under what circumstances?

APA Response

Given the sensitivity associated with compulsory acquisition, APA would recommend that the Chair seek specific guidance on this question from the Department.

We would however highlight that under the Pipelines Act, land/easements may become available for compulsory acquisition where the applicant has taken all reasonable steps to enter into an agreement with the owner to acquire the lands or easements and those steps have not resulted in any such agreement.

In such instances it is APA's understanding that under The Pipelines Act that the Land Acquisition (Just Terms Compensation) Act 1991 applies to the payment of compensation as if the vesting of lands or easements were effected by an acquisition notice under the Land Acquisition (Just Terms Compensation) Act 1991.

Where landowners have entered into an agreement with APA, the value of their compensation is recorded in that agreement, as is the normal position under the Land Acquisition (Just Terms Compensation) Act 1991.

Question

10) What is the likely timeframe for supply of Option Agreement packages to the owners of all properties proposed to be burdened by the pipeline easement? How will those landowners that decline to negotiate or execute an Option Agreement be managed?

APA Response

APA is working to have an agreement presented to all landowners within the next 2 to 3 months i.e this step is expected to be concluded by end July 2018.

APA recognises that not all landowners will be available or perhaps interested in meeting with APA to discuss the agreement package. In such instances, APA will instead provide the landowner with the offer package by post. APA is obliged to continue to take all reasonable steps to enter into a voluntary agreement with all landowners.