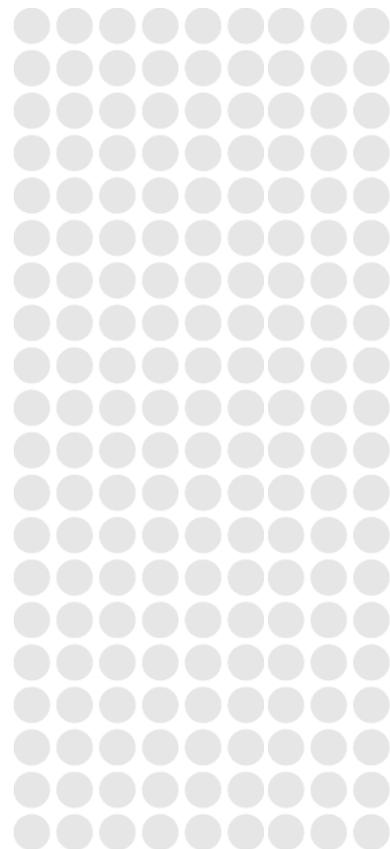




16 June 2017

Review of Victoria's Electricity and Gas Network Safety Framework- Supplementary Issues Paper

APA VTS Operations (Australia) Pty Ltd Submission





Background: APA VTS Australia (Operations) Pty Ltd (APA VTS Operations) has an interest in the gas safety framework review as the owner of the Victorian Transmission System (VTS) and Dandenong LNG storage tank. The VTS consists of 51 licenced gas transmission pipelines and is designated as "Vital Critical Infrastructure" under the Emergency Management Act 2013.

The VTS operates under a Safety Case regime in compliance with the Gas Safety Act 1997 (Gas Safety Act) and regulations, and is subject to the Pipelines Act 2005 (Pipelines Act) and regulations, with Energy Safe Victoria (ESV) operating as the safety regulator. Department of Environment, Land, Water and Planning (DELWP) is responsible for licencing of the VTS.

The Dandenong LNG facility is a licensed Major Hazard Facility with a Safety Case regime under the Occupational Health & Safety Act 2004 with WorkSafe Victoria operating as the safety regulator and issuing the operating licence.

APA VTS Operations is a part of the wider APA Group, which owns and operates gas and energy infrastructure in all States on the Australian mainland, dealing with all safety regulators in accordance with the State based legislative structure that applies to gas pipeline infrastructure within Australia.

Response to the Issues Paper: APA VTS Operations welcomes the review and is appreciative of having the opportunity to respond to the issues paper.

In relation to specific issues raised in the discussion paper, APA VTS Operations provides the following response:

Issue 1; Safety legislation and approach to safety regulation:

- ***Are there opportunities to improve the efficiency and the effectiveness of the Gas Safety Act, Pipelines Act and associated Regulations?***

APA VTS Operations response: There are significant opportunities to improve and streamline safety legislation. For example, both the Gas Safety Act and Pipelines Act and Regulations 2017 (Pipelines Regulations) subscribe safety requirements. However, the Pipelines Regulations also prescribe compliance with AS2885.1 & AS2885.3 which include safety management requirements.

APA VTS Operations considers that this creates risks in terms of inconsistent statutory requirements. We believe that there should only be one set of safety requirements prescribed to ensure consistency, avoid repetition and eliminate the possibility of different standards being interpreted differently or as being in conflict.

The Safety Case regime is fundamentally a good one to ensure the appropriate safety management and risk management systems are in place and APA VTS



Operations would support that the Safety Case regime be prescribed above all other safety obligations for all industry segments.

- Should there be a change in the degree of prescription provided in the current framework? If so, what would be the justification for any proposed changes?

APA VTS Operations response: We would advocate that the degree of prescription in the current framework should be reduced.

Consolidating a set of safety requirements between Gas Safety Act, Pipeline Regulations and AS2885.3 and having one set of clear requirements would reduce the risk that an incorrect safety decision is made because legislative obligations are too complex or in conflict.

The Gas Safety Act prescribes a Safety Case for a "facility" under the Regulations whilst the Pipelines Act requires a Safety Management Plan for pipeline operation, different terminology for similar types of documents.

We believe there is a necessity for a clear and communicated compliance policy and strategy, developed by the regulator in consultation with industry, for managing gas and pipeline safety within the State and clear defined KPI's in place for the regulator. Guidance for when particular enforcement action should be utilised, for example voluntary steps by the facility owner, as against penalty notices and more serious enforcement action. This reflects the standard utilised in other jurisdictions, improves outcomes and reduces compliance costs for regulators.

A Safety Case should be a very effective tool in management of safety and risk and has a demonstrated success by Worksafe Victoria in its regulation of Major Hazard Facilities.

Currently there are significant issues with Safety Case approval, auditing processes, and also the oversight of construction work for gas pipelines. Processes are overly complicated and time consuming compromising effectiveness. APA considers that there should be more certainty on timeframes for government decision making as well as a greater focus in the Safety Case on the key risks and their mitigation.

In relation to Safety Cases, ESV has allowed Safety Cases to be submitted without providing approval after a number of years. The same Safety Cases that are approved by other regulators. ESV issues guidelines for submission of a Safety Case, but it does not publish the assessment criteria.

Auditing processes consist of ad-hoc topics and not a considered oversight of Safety Case parameters in operation, which leads to a hit and miss approach as to whether the topics are to the benefit of improving industry safety. Some topics have been worthwhile and others have had little benefit.



Construction Safety Management Plans are submitted under a guideline which also does not contain an assessment criteria, with the process adding more inefficiencies by often containing a number of hold points, which requires further time for preparation of what we consider to be excessive material and waiting for ESV consent under section 107 of the Pipelines Act. This system requires immediate review.

- Are there examples of 'better practice' gas safety and risk management frameworks from other jurisdictions (nationally or internationally) or from other industry sectors that should be considered?

APA VTS Operations response: The *Guide for Major Hazard Facilities - Safety Case Preparation* published consistently across Australia through Safe Work Australia is an example of clear guidance adopted by State based regulators even though there is differing State based legislation.

WorkSafe Victoria have published guidance notes and oversee a very clear and effective approach to regulating Safety Cases including an effective assessment and oversight process.

Worksafe Victoria undertake site visits to conduct a 5 yearly Safety Case verification audit, where the licensee demonstrates the safety processes in practice and is then supported by an annual oversight inspection audit scrutinising elements of the safety management and verifying risk control measures.

The same safety management system is submitted as part of the Major Hazard Facility and pipeline Safety Cases with a vastly different approach to regulation being undertaken by each regulator. We consider the Worksafe method to regulation as being highly effective and contributing to strengthening the effectiveness of safety management.

The South Australian regulator has a system of high surveillance and low surveillance operators set on a specific criteria which will set the amount of scrutiny placed on an operator depending upon their designation, which operates effectively.

Western Australia also has a Safety Case regime following a process where the pipeline licensee demonstrates the effectiveness of its Safety Case through annual auditing.

We believe regulators and industry should consult and work together to achieve a common goal of a strong safety culture through of a clear published regulatory framework including policy objectives, compliance strategy, published KPI's for industry and the regulator, quarterly performance reporting and customer charters. APA VTS Operations believes that there are a number of good interstate examples of safety management which are more efficient and effective in achieving their goals.



Issue 2: Safety Culture and Workforce Engagement

- Does the framework effectively promote the engagement of the workforce in promoting safety? Are there opportunities for improvement?

APA VTS Operations response: Workforce engagement is well served through the consultation requirements contained within occupational health and safety legislation, risk assessment and permit to work systems, which are part of the safety management systems and specified within the Safety Case and safety management plans.

This engagement extends to personal safety and process safety where safety critical work methods are developed with close consultation of field technicians in work development plans and also managing onsite work safety through structured processes.

Management provide a commitment through providing safety management frameworks with regular consultation, reporting, review and assurance processes built in to the processes.

Safety obligations are built into position descriptions and performance appraisals for staff, which we believe provides a more effective framework for workforce engagement. Personal responsibility is also built into safety legislation.

- Are there opportunities to further promote strong safety leadership cultures?

Whilst never wanting to become complacent, there is already a strong safety leadership culture within the industry, which is demonstrated by the policies, systems and resources applied by this company and others in the industry. We are not of the view that further regulation is required to strengthen leadership culture.

Issue 3: DELWP and ESV roles in gas network safety:

Submissions to the review may wish to comment on the respective roles of DELWP and ESV and on the broader government programs and activities to promote gas network safety:

- Are the respective roles of ESV and DELWP clear and well-coordinated? Should any changes be considered to the allocation of responsibilities between ESV and DELWP?



APA VTS Operations response: The respective roles of ESV and DELWP are well understood and seem to be well co-ordinated in relation to gas and pipeline safety and associated licencing requirements.

DELWP are now processing licencing applications efficiently and are in the process of taking back the obligation for environmental regulation from ESV, however the complete process is not yet complete. DELWP are clear in the delineation between itself and ESV.

DELWP also administer the Emergency Management Act 2013, to which the VTS is designated as "vital critical infrastructure" which designated extra responsibilities for APA VTS in relation to emergency risk management over and above responsibilities in gas and pipeline specific laws.

We would advocate consideration of bringing ESV in under the direction of DELWP to better harmonise the industry with clear goals. Under the DELWP structure it would be easier to establish an effective compliance framework that could establish safety accountabilities for the industry and the regulator in a more transparent manner as DELWP has the skills and resources required to develop the policy framework.

There is no other pipeline safety regulator in Australia that operates separately to the Government Department that sets the regulation.

- Are there further matters that should be considered in relation to issues associated with planning around gas pipelines to ensure public safety?

The issue around gas pipelines and public safety is now at a level where it is acknowledged at the planning level, following the Major Hazard Facility Planning Advisory Committee hearings, but there has been no resolution in solving the problem going forward.

It appears that the recommendation by the Major Hazard Facility Planning Advisory Planning to set up a committee overseen by DELWP to consider the issues of planning around pipelines has not progressed.

Until there is protection enshrined within planning legislation and planning schemes the issue of pipeline safety will continue to escalate in relation to new precincts being developed within close proximity to pipeline easements and routes.

We also advocate that the use of "Dial before you dig" by third parties undertaking excavation works should be mandated in legislation, as it is in NSW. Please see the attached flier and example of legislative requirement captured within the NSW Gas Supply (Safety and Network Management) Amendment (Infrastructure Protection) Regulation 2010.



Issue 4: ESV's capabilities and governance:
Submissions to the review may wish to comment on ESV's governance arrangements and capabilities to regulate and promote gas network safety.

- Does ESV have the right mix of capabilities — people, skills and systems?

APA VTS Operations response: It is difficult to determine whether ESV has the right mix of people and skills as it has extended its regulatory functions excessively, sometimes with limited practical application and having a minimal impact on improving safety.

There is a significant issue where, as previously stated, there are no published objectives, no policy targets, customer charter nor any published KPI's for the safety regulator meaning there has been little accountability for ESV, and no way of knowing whether it is effectively applying its resources.

- Are there capabilities, including in new and emerging areas that should receive greater attention and investment?

APA VTS Operations response: A greater understanding of assurance and compliance systems and frameworks may assist.

Whilst in the early stages, the regulator needs to be aware of what may emerge and be prepared to invest in new skill sets once the technologies become clearer.

- Are there existing capabilities that could be scaled back or managed more efficiently by ESV?

APA VTS Operations response: We believe major change is required for ESV to become an efficient and effective regulator. We are concerned that it may not be utilising its resources efficiently.

The Safety Case submission and approval process, the auditing program and the works approval process all need significant change. They all need to be more efficient, transparent and effective.

Safety Case submissions have been discussed in previous comments.

The auditing process should be linked to Safety Case validation following the Worksafe model for Major Hazard Facility Safety Case validation and should be reviewed in consultation with the industry to establish a clear process and a suitable balance between system and process audits and site inspections.

The scrutiny that ESV places on submissions for pipeline modification and alteration work should be scaled back significantly, as ESV undertakes a lengthy assessment of documentation for little practical gain. Other regulatory bodies deal with this process much more efficiently.



This could create safety issues as site crews sometimes are waiting for confirmation of approval from ESV, particularly at "hold points" and at a consent to operate stage, which results in time wastage through overly prescriptive review process with no certainty around timeframes for receiving approval. This then places pressure on work crews to perform work quickly.

It makes it very difficult to manage site works and contractors with direct cost impacts perhaps running into hundreds of thousands or even millions of dollars, making for a very inefficient industry and cost pass through to the end user and ultimately the community receiving energy bills.

ESV spends a large portion of time re-checking engineering work where we do not believe that this is their role given that licensees already have engineering validation processes or engage third parties for independent validation of engineering work.

ESV should be checking that licensees have appropriate processes for validating engineering work rather than re-checking the work.

In reality, new or modified installations for piping or station works will never be commissioned without proper certification of safety critical work and field inspections by ESV should confirm this rather than black letter checking of voluminous paperwork.

Issue 5: ESV's approach to regulation

Submissions to the review may wish to comment on ESV's approach to gas regulation:

- Does ESV strike an effective balance in its compliance and enforcement activities? (That is, a balance between an approach that could be seen as too 'light touch', where regulatory interventions could be stronger, and one that could be seen as too 'heavy handed', where regulatory interventions might be seen as disproportionate to the risks involved).

APA VTS Operations response: APA believes ESV needs to rethink its compliance framework and develop a properly structured strategy with clear objectives. The revised Pipelines Regulations 2017 provides better mechanisms for enforcement action however enforcement is largely ineffective without a compliance strategy, excepting for blatant gross breaches of legislation.

There are major issues with the compliance framework for safety cases, pipeline alteration / modification submission and approval, and the auditing framework, as discussed earlier within this submission.

On the issue of third party encroachment where an APA pipeline was contacted by a horizontal direction drill from a third party, ESV applied a resource to

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investigate the issue and went through their own processes prior to deciding whether to prosecute the offender. APA was able to recoup the cost of repairing the pipeline from the perpetrator without intervention from the regulator. The regulator declined to take action against the third party for breaching the Pipelines Act, despite the prima facie evidence available. This practise of neglecting to enforce sections of the Act on individuals and organisations that are not Licensees is common.

- Does ESV communicate its requirements effectively? Are there any aspects that could be improved?

APA VTS Operations response: Guidelines issued for both Safety Case and Construction Safety Management Plans are of poor quality and uncertainty of the requirements results in an oversupply of paperwork during submissions. We have presented examples of more effective guidelines earlier in this submission, particularly those used by Worksafe Victoria and Worksafe Australia and the Western Australian regulator in relation to Safety Cases.

We understand that ESV have been going through a process of internal change since September 2016 with the way it regulates and the end result of any change is yet to be seen.

Issue 6: Safety reporting and public information

Submissions to the review may wish to comment on the current reporting practices on Victoria's gas network safety performance and areas for improvement.

APA VTS Operations response: Reporting on gas network safety performance can be improved significantly.

Quarterly KPI reporting provides limited information and is currently under review by ESV via a consultant, which we commend.

The amended Pipelines Regulations 2017 have introduced annual pipeline reports, there has yet to be a guideline issued on this topic and the expectation on content is not clear at this stage. We hope ESV consults with industry as they did with the KPI's above.

The response and expectation on the annual environment report requires too much level of detail for little benefit, again with limited guidance.

The Annual Gas & Pipeline Infrastructure Safety Management Report issued by ESV is issued with little consultation and is a compliance report rather than a safety report with clear measurable performance parameters. The report is also based upon licensee performance with no performance criteria recorded for the regulator, who is after all also part of the industry.



Issue 7: Interactions between economic and safety regulation

Submissions to the review may wish to comment on the relationship between the economic regulatory and safety regulatory frameworks.

APA VTS Operations response: As noted in the Supplementary Issues Paper, the National Gas Law and National Gas Rules establish the framework for the economic regulation of gas pipelines. For pipelines and networks covered by full regulation, the AER must assess the revenues needed to cover efficient costs of the business. This explicitly includes efficient and prudent costs incurred by the business for maintaining and improving the safety of services.

The nature of safety obligations is that they are often expressed as a duty – the obligation relates to safety outcomes rather than following a particular process. APA considers that this is an appropriate emphasis. However the AER, as economic regulator, has not always understood or recognised how safety expenditure created through a duty translates to a positive regulatory obligation. There have been times when the AER has rejected safety related expenditure without consulting the relevant safety regulator in the State in question.

APA's emerging approach in Victoria has been to seek support from the ESV in respect of significant safety projects through letters of support and similar. This has been largely successful in bringing issues to the AER's attention where they drive specific costs within the pipeline.

Issue 8: Emerging trends

Submissions to the review may wish to comment on the capacity of the existing gas safety framework to effectively regulate emerging trends associated with the gas network.

- Will any changes to the safety framework be required as gas transmission and distribution networks evolve over time to adapt to changes in demand and with the adoption of emerging natural gas supply solutions?

APA VTS Operations response: This is a longer term issue that industry and Government shall need to work on collaboratively as new technologies emerge. The safety aspects of emerging technology will need proper assessment and flexibility to adjust regulatory frameworks to cater for the new technology. The safety of the public is always a priority in being able to develop new technology.



The East Coast market has 4 onshore regulators and 1 offshore regulator making innovation and gas supply solutions difficult, regulators need to evolve and assist in regulating to encourage innovation and work more collaboratively.

Emerging trends may include Hydrogen technology, LNG import, the use of ISO containers and other innovations that may be developed.