



Interim Report - Review of Victoria's Electricity and Gas Network Safety Framework

APA VTS Australia (Operations) Response

APA is appreciative of being able to respond to the interim report of Victoria's Electricity and Gas Network Safety Framework review and views this as a good opportunity to strengthen the safety outcomes for all stakeholders.

Our response is specific to gas safety and the contents of Part D of the interim report and the 9 chapters under that section.

Chapter 1; ESV's Regulatory and Corporate Governance

We understand that the review considered two key aspects of governance;

- the structures and arrangements that apply to ESV's regulatory decision making, the regulatory governance framework; and
- the structures and arrangements that apply to its organisational decision making, its corporate governance framework

The report references reviews commissioned by ESV in 2015 & 2016, which highlighted several areas of weakness in ESV's systems and processes including:

- organisational drift, with ESV lacking a well-defined "organisational model"
- unbalanced spans of control
- Insufficient team based approaches
- Weaknesses in ESV's strategic foundations
- insufficient analytical capacities: and
- a lack of a consistent basis for understanding and communicating risk within the organisation

Since the reviews ESV have initiated a significant organisational reform program and the reform is "evolving and continuing work".

APA's response on this section;

APA participated in the review of ESV undertaken by Advisian in 2015, however we received no information on the review findings nor on any findings from the other reviews.

The ESV Corporate Plan that is often referred to in the interim paper to underpin reform has not been circulated or made known to licensees.

We would support action on addressing weaknesses in ESV regulatory and corporate governance and would support organisational structures geared towards effective decision making based on service delivery. We would expect that internal KPI's on key business activities are identified, measured, scrutinised diligently and made transparent.

Whilst the ESV organisation structure requires close consideration it is fair to say that every other similar technical regulator in Australia manages to operate effectively without the need for a commission to be set up for oversight, however a commission may be beneficial in this instance as it doesn't appear ESV's current corporate structure up has been able to achieve the desired outcomes of efficient regulatory oversight.

There is little in the recommendations related to regulatory decision making apart from a high level comment about an overarching roadmap to detail key actions. ESV's ability to build a framework for regulatory oversight and decision making is key and we consider that there is not enough analysis of this contained within the interim report.

It remains that ESV's regulatory oversight is unnecessarily overly-complicated, is lacking in direction and can be simplified significantly. ESV must be focused on supporting the industry and outward looking at achieving great safety outcomes for all Victorians, not inward focused and overly concerned with its own internal machinations.

Chapter 2 ESV's Regulatory Approach and Capabilities

This chapter considers ESV's regulatory approach and its regulatory capabilities, with a focus on compliance and enforcement, and the broader analytical capabilities necessary to support effective risk based regulation.

The paper discusses in some length the processes in which ESV identifies risk, conducts audits and inspections, and assesses safety cases and regulatory submissions.

APA's response on this section;

The recommendations are largely around increasing ESV resourcing to achieve improved regulatory oversight and for ESV to use more enforcement action. The interim report advocates for increased staff numbers at ESV, particularly around additional "audit & inspection staff" with a recommendation to almost double the staff in the Gas & pipeline Infrastructure group.

It is our view that ESV needs to better utilise the resources that it already has before considering utilising additional resources. It is imperative that efficient use of resources by the regulator is achieved and can be demonstrated prior to introducing additional costs, which is funded by licensees and in turn end users. It is important to keep costs down and ensure efficiency.

It is our view that activities such as safety case oversight, construction safety management oversight, submission review and acceptance, audit and inspection activities can all be managed more efficiently and effectively without the need for a significant increase in staff numbers.

The responsibility for safety management must remain with the licensee, therefore ESV would be better served becoming more acquainted with licensees internal checking and assurance processes, including technical engineering checks, rather than re-checking engineering work and technical calculations.

ESV would be well served to develop improved guidelines for submissions (safety case and construction), publish assessment criteria and formalise response times and concentrate more on

critical risk via operator / licensee risk registers. The adoption of performance standards as in the Western Australian legislation would help crystalize risk so time is not wasted on peripheral issues.

When armed with this more meaningful information, then this should drive a proper assurance program via audits and inspections.

Many companies also have national systems, therefore audits conducted by other regulators or in other jurisdictions, including external audits, should bear weight in demonstrating the effectiveness of safety systems.

As discussed within the original APA submission, it is unacceptable that safety cases can be left outstanding by ESV for so long, when safety cases with largely the same content are accepted by other authorities, such as Worksafe Victoria and DMIRS in WA, in much shorter timeframes with a proper assessment process that all parties understand.

Western Australian safety cases are being accepted within a 2 week turnaround period from submission because the regulator has worked closely with the operator / licensee to clearly establish the criteria around critical risks to the benefit of all parties for a safer outcome and has an effective audit verification program.

Whilst the number of safety incidents is not always an accurate indicator of safety performance, it is notable that there have only been 5 reportable gas safety incidents in the past 10 years, most are limited in severity with only 1 loss of containment event. Rather than advocating more stringent enforcement, ESV should be encouraged to have a more consultative approach with industry and work together in an open manner to achieve improved safety outcomes.

Chapter 3 Engagement across Regulatory and Interagency Boundaries

The section discusses the updating of MOU's ESV already has with regulatory agencies such as DELWP, WorkSafe, AEMO, CFA, DBYD, EPA, Essential Services Commission, etc. some of the MOU's are current and some expired. There is no MOU with DELWP.

APA's response on this section;

APA is supportive of the contents of this section and the recommendations. ESV is observed as having effective interaction with these groups formally and informally.

Chapter 4 Integrating Safety Regulation with Economic Regulation

Safety requirements are required to be taken into account by the AER in its pricing determinations. This chapter discusses the relationship between ESV and the AER and the notion that they should strengthen interaction between economic and safety regulation.

The report advocates that ESV act as an authoritative advisor to the AER and that AEMO also has a role to play in determining appropriate capital works.

APA's response on this section;

A closer more considered and longer term outlook on pipeline safety in economic regulation is supported, including security of supply issues. We would support ESV having an expanded role as an authoritative advisor to the AER.

We see AEMO's role as more limited as it does not have the broader drivers of safety beyond security of supply. ESV should be the sole point of reference between AER on regulatory decision making.

Chapter 5 Promoting Workforce Engagement

This chapter advocates that workforce engagement is essential to strong safety cultures and that ESV has a role in ensuring this engagement has occurred in development of safety cases.

A reference to the paper by Dr Vanessa McDermott "*We're still hitting things*" identifies that *competitive tendering processes mean that financial risk and the management of pipeline strikes is shifted down the chain to third party contractors.*

APA's response on this section;

APA's initial submission represented that consultative processes are already prescribed within occupational health & safety legislation, and observed by the business through its safety management system and internal processes. Whilst we have no issue with ESV checking consultative arrangements through auditing and assurance processes, we do not see the need for a consultative committee to be set up by ESV on this issue.

We do not hold the view that responsibility for pipeline strikes is passed down the chain to third party contractors. Contractors may be engaged to perform some surveillance and patrolling duties but responsibility for pipeline safety is not passed on to them.

Chapter 6 programs to Address Bushfire Risk in Victoria

Recommendations 25 – 29: Not applicable to APA

Chapter 7 Regulating Underground Assets

This section discusses safeguarding underground assets and identifies encroachment and third party damage as one of the biggest risks pipelines. The map of residential growth corridors against pipelines contained in Figure 20 is good visual representation of the issue.

APA's response on this section;

The commentary and recommendations support APA's original submission and thus APA is supportive of the content of the interim report. The mandating of DBYD as in NSW is fully supported.

We believe that ESV should take a stronger role in relation to planning outcomes and become the referral authority for development around pipelines following consultation with licensees.

Chapter 8 Regulating Networks of the Future

This section discusses the development of new technologies and the need for the safety framework to be flexible enough to effectively regulate the networks of the future. The paper advocates the establishment of advisory committee to formalise consultative processes on emerging technology to stay ahead of the curve.

APA's response on this section;

Whilst we feel the interim report is recommending an unusually high number of committees to be formed, it seems reasonable to undertake steps towards identifying emerging technologies and discussing safety issues though we don't envisage this would be a highly time consuming task until the technologies emerge commercially.

Chapter 9 Strengthening the Foundations for Future Network safety Regulation

This section of the report promotes the benefit of developing a single consolidated piece of safety legislation based on the safety case philosophy to replace multiple acts and regulations applicable to the sector.

APA's response on this section;

The report supports APA's position that there should be one piece of legislation based on safety case requirements.

The pipeline industry is used to the ALARP principle as per AS2885, therefore the commentary in recommendation 35 relating to aligning risk to "as far as reasonably practicable" may have ramifications and could change or cause confusion to long established risk frameworks within the industry as it applies to process safety and assets.

General safety duties as described in recommendation 36 should align with existing duties in health & safety legislation and existing safety case requirements in other legislation.

APA is supportive of recommendation 42 in relation to establishing guidance and the approach to evaluation of safety cases and agree there should be consultation between ESV and industry to develop the expectation.