

COODE ISLAND COMMUNITY CONSULTATIVE COMMITTEE

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Dear Sir

Model Work Health and Safety Regulations

The Coode Island Community Consultative Committee (CICCC) makes the following submission on the Model Work Health and Safety Regulations.

An area of particular concern, for which Victorian Regulations provide considerable rights to the community in the vicinity of Major Hazard Facilities, and which does not appear to be addressed in the Model Work Health and Safety Regulations, is contained in Sections 5.2.24 and 5.2.25 of the Victorian Occupational Health and Safety Regulations 2007.

The community has a right to be consulted and informed about any and every aspect of risk they may be exposed to through the operation of Major Hazard Facilities in particular, though that right is not limited to the impact of MHFs. The CICCC was formed 14 years ago, with the involvement of Terminals Pty Ltd, the operator of a bulk chemical liquid storage facility at Coode Island, which is a MHF. The CICCC has been concerned to ensure its participation in processes that impinge on the operation and management of the facility that may affect the local community.

These processes include the seeking of planning approval for new products and facilities, EPA approvals for the ongoing management of environmental matters, and WorkSafe approvals (including the development and review of the Safety Case). Terminals Pty Ltd has been generally supportive of the community's 'right to know', and has made information available to the community in advance of the requirement for statutory processes in many cases.

The community sees much merit in being an active participation in the review of matters that may impinge on its amenity, health and safety. Such participation can provide reassurance to the community that its voice is being heard, it can assist the company in communicating with the community, it can lead to better framed proposals, and it can lead to the development of a company better able to take a broad view of its responsibilities—to the ultimate benefit to the company's management and financial bottom line.

It is thus of considerable concern to the committee that Sections 5.2.24 and 5.2.25 of the Victorian Occupational Health and Safety Regulations 2007 do not appear to be represented in the Model Work Health and Safety Regulations. The CICCC would argue that it will benefit the community, the companies and good governance to ensure that these provisions are included in the Model Regulations. However, to be effective, the provisions of Sections 5.2.24 and 5.2.25 need to be strengthened to provide access to the full safety case for the scrutiny (on condition of general confidentiality, barring omissions that need to be rectified) of bone fide representatives of the Local Government Authority, and any bone fide representative of a local community group.

It should be noted that consultation goes beyond the timely provision of information. It is a precursor to informed discussion, and to the building of confidence that facilities are safe and well managed. The Victorian Regulations provide for consultation rather than merely information provision, which is demonstrated in the Index to the Regulations, where Clauses 5.2.24 and 5.2.25 are cited under the heading 'Consultation'.

Some other clauses of the Victorian OHS Regulations have also been omitted, namely Clauses 5.2.8 (Control of risk), 5.2.19 (Information, instruction and training), 5.2.21 (Further information and access to documents for employees) and 5.2.22 (Response to employee alert at major hazard facility). These important elements of a comprehensive Risk Management system are in the Victorian Regulations as a result of reviews, including Coronial Inquiries, into major incidents, including the Longford Gas Plant incident. It is essential that such learning be replicated in the Model Regulations, to avoid repeating the mistakes of the past.

Going beyond the provision for Major Hazard Facilities, Clauses 17 and 18 of the Model Work Health and Safety Bill provide for the management of risks, and in embryonic form require the identification of hazards and the quantification of consequences, key elements of risk assessment. It is understood that at the time of settling the Model Bill, it was proposed to provide in the Model Regulations a generic provision for risk assessment, to detail how Clauses 17 and 18 are to be satisfied. This has not been done, and its absence means that there is presently no statutory provision for the detailing of basic risk assessment principles, such as control at source (with provisions such as Clause 5.2.8 in the Victorian OHS Regulations 2007), nor for the steps detailed in 8.3.11 of the present Model Regulations pertaining to Major Hazard Facilities. The absence of the anticipated generic requirement for risk assessment needs to be addressed, with additional Clauses in the Model Regulations.

Yours sincerely

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