



Department of Primary Industries

Occupational Health & Safety Regulation in Mining

June 2008

Project Number: 01_2008CA

Distribution:

Audit & Risk Management Standing Committee

Richard Aldous Executive Director, Minerals and Petroleum, Department of Primary Industries

Phil Roberts Director, Minerals and Petroleum Regulation, Department of Primary Industries

John Mitas Manager, Minerals and Extractive Operations, Department of Primary Industries

Copies:

David Boyd Partner, Deloitte Touche Tohmatsu
Roderick Marsh Director, Deloitte Touche Tohmatsu

Table of Contents

1	Executive summary	3
2	Detailed findings	11
3	Statement of Responsibility	20
	Appendix 1 – Scope	21
	Appendix 2 - Memorandum of Understanding	24

This report has been prepared on the basis of the limitations set out on page 20.

1 Executive summary

1.1 Introduction

As part of the outsourced Internal Audit Services provided to the Department of Primary Industries (DPI), Deloitte Touche Tohmatsu (Deloitte) has conducted an examination of the transfer of DPI responsibilities for Occupational Health and Safety (OH&S) in the mining industry to the Victorian WorkCover Authority (VWA).

This engagement was performed in accordance with APS8, the Professional Statement on Management Consulting Services, issued by the Australian Accounting Bodies. Further information in relation to the extent of the procedures performed is detailed in Section 3 – Statement of Responsibility, and Appendix 1 – Scope.

1.2 Background

In 2006, the former Minister for Energy Industries and Resources commissioned an inquiry, led by Mr Neil Pope, of the regulation of OH&S in Victoria's earth resource industries.

The key recommendation arising out of this inquiry was the transfer of responsibility for OH&S regulation of earth resource industries from DPI to VWA. The Victorian Government accepted this recommendation, which took effect from 1 January 2008.

While VWA assumed responsibility for regulating the earth resources sectors on 1 January 2008, DPI continues to regulate environmental, rehabilitation, compliance, public safety and community consultation matters for the minerals, extractive, geothermal and petroleum sectors. A Memorandum of Understanding (MoU) was developed to clarify responsibilities between DPI and VWA.

1.3 Objectives and scope

The objective of this internal audit project was to examine the transfer of DPI responsibilities for OH&S in the mining industry to the VWA.

This internal audit considered the following:

- Awareness of responsibilities for OH&S in the mining industry transferred from DPI to VWA
- DPI's understanding and resourcing of the residual risk following the transfer of responsibilities for OH&S in the mining industry to the VWA
- The manner in which OH&S and mining industry knowledge was transferred from DPI to VWA
- Responsibility for and retention of documentation in relation to OH&S in the mining industry created prior to 1 January 2008.

1.4 Summary of results

Our examination of the transfer of DPI responsibilities for OH&S in the mining industry to the VWA highlighted that overall, DPI have a sound awareness of the responsibilities for OH&S in the mining industry transferred from DPI to VWA and an understanding of the residual risk following this transfer of responsibilities.

The answers to our Key Internal Audit Questions are outlined below. A summary of our findings and suggestions for improvement, where required, follow. Detailed findings and suggestions for improvement, where required, are included in Section 2 – Detailed Findings.

Key Internal Audit Question	Answer
1. Is there clear awareness of responsibilities for OH&S in the mining industry that were transferred from DPI to VWA?	Yes
2. Is the residual risk to DPI following the transfer of responsibilities for OH&S in the mining industry to VWA appropriately understood and	Yes

Department of Primary Industries

Key Internal Audit Question	Answer
resourced? E.g. residual risks associated with public safety	
3. Can DPI demonstrate that it has made all practicable attempts to ensure a comprehensive transition of OH&S responsibility to VWA?	Yes
4. Are responsibilities for the retention of documentation understood?	Yes

Our detailed findings and suggestions for improvement, where required, are included in the following section of this report.

As a part of our examination, discussions were held with the following DPI personnel:

- John Mitas, Manager Minerals and Extractive Operations
- Terry McKinley, Manager Petroleum and Geothermal Operations
- Ian McLeod, Manager, Minerals and Extractive Operations (Melbourne District)

The following documentation was also examined:

- Memorandum of Understanding between DPI and VWA
- Steering Committee Meeting Minutes
- Report into Occupational Health and Safety in the Victoria Earth Resources Industries
- Project Plan.

1.4.1 Summary of Internal Audit findings

Provided below is a summary of key findings noted:

Item No	Observations	Suggestions for improvement	Management response & Follow Up Actions to be completed	Person Responsible	Date for Completion
1	<p>Awareness of responsibilities for OH&S in the mining industry transferred from DPI to VWA</p> <p>The responsibilities for OH&S in the mining industry transferred from DPI to VWA are detailed in the Memorandum of Understanding (MoU) between the Department of Primary Industries and the Victorian WorkCover Authority. The MoU is effective from 1 January 2008.</p> <p>In addition to the above, a Steering Committee was established in November 2006 to promote awareness and manage the transfer of responsibility and knowledge for OH&S in the mining industry from DPI to VWA.</p>	<p>(1) It was noted in discussions with management that the Steering Committee established to oversee the transfer of responsibility for OH&S in the mining industry will meet until 30 June 2008, after which time, the need for the Steering Committee going forward will be reviewed.</p> <p>In reviewing the need for the Steering Committee post 30 June 2008, factors that DPI and VWA should consider include:</p> <ul style="list-style-type: none"> • The nature of agenda items over the past months. A shrinking agenda may suggest that the Steering Committee will not be required going forward. • The nature of issues arising within Steering Committee meetings over the past months. The existence of minor issues capable of being dealt with via DPI / VWA line managers may suggest that the Steering Committee will not be required going forward. 	<p>Management agree with the observations noted.</p> <p>DPI will consider the factors included in the suggestions for improvement when reviewing the need for the Steering Committee post 30 June 2008.</p>	Phil Roberts	30 June 2008

Department of Primary Industries

Item No	Observations	Suggestions for improvement	Management response & Follow Up Actions to be completed	Person Responsible	Date for Completion
		<ul style="list-style-type: none"> • Confirmation of the mechanism to address any emerging / future issues. • Level of understanding of where residual responsibilities (if any) will reside. • Whether the responsibilities as described in the MoU are adequately defined and whether any amendments are required to the MoU. • Whether it may be appropriate for the committee to continue to meet and discuss operational activities. This may be an appropriate forum to share industry knowledge that may be useful in relation to completing site inspections and audits of Work Authorities. 			

Item No	Observations	Suggestions for improvement	Management response & Follow Up Actions to be completed	Person Responsible	Date for Completion
2	<p>DPI's understanding and resourcing of the residual risk following the transfer of responsibilities for OH&S in the mining industry to the VWA</p> <p>The areas of residual risk to DPI following the transfer of responsibilities for OH&S in the mining industry to VWA are clearly detailed in the MoU.</p> <p>Schedule 2 "Ongoing Arrangements", of the MoU, in particular, section 1.2 "Overlapping responsibilities" contains a table which clearly sets out the areas of residual risk to both DPI and VWA.</p> <p>It was noted in the MoU and following discussions with management that DPI and WorkSafe Victoria will consult on matters where their jurisdictions overlap, with the lead agency being the agency with the highest degree of control over the issue.</p>	Not Applicable	<p>Management agree with the observations noted.</p> <p>No further action required</p>	Not Applicable	Not Applicable

Department of Primary Industries

Item No	Observations	Suggestions for improvement	Management response & Follow Up Actions to be completed	Person Responsible	Date for Completion
3	<p>The manner in which OH&S and mining industry knowledge was transferred from DPI to VWA</p> <p>Our examination of documentation and subsequent discussions with DPI staff highlighted that OH&S and mining industry knowledge was transferred from DPI to VWA via monthly Steering Committee meetings.</p> <p>In addition to the above, it was noted in discussion with DPI staff members that a number of other activities have been undertaken to assist in the transfer of OH&S and mining industry knowledge from DPI to VWA and DPI and VWA to the mining industry. These activities include the Tripartite forum, the production of a minerals and extractive operations newsletter, training and presentations and a letter from Worksafe Victoria to all mines and quarries.</p>	Not Applicable	<p>Management agree with the observations noted.</p> <p>No further action required</p>	Not Applicable	Not Applicable

Item No	Observations	Suggestions for improvement	Management response & Follow Up Actions to be completed	Person Responsible	Date for Completion
4	<p>Responsibility for and retention of documentation in relation to OH&S in the mining industry created prior to 1 January 2008</p> <p>The MoU clearly details the responsibility for and retention of documentation in relation to OH&S in the mining industry created prior to 1 January 2008. Schedule 2 "Ongoing Arrangements", in particular, section 2.3 "Historical records" provides as follows:</p> <p>"2.3.1 Copies of <i>recent</i> OH&S information pertaining to sites have been provided to WorkSafe Victoria electronically. There is some information located on hard copy files that will remain with DPI. In the future, WorkSafe Victoria may wish to view this historical information. The agencies will share access to current information as arranged and agreed through local managers".</p>	Not Applicable	<p>Management agree with the observations noted.</p> <p>No further action required</p>	Not Applicable	Not Applicable

Department of Primary Industries

1.4.2 Risk profile

The risk profile presented below is consistent with the DPI Risk Management Guidelines in light of the controls in place in relation to each finding. The rating below is based on observations made during the internal audit and is limited by the scope of the work performed.

Following our examination of the transfer of responsibility for OH&S in the mining industry from DPI to VWA, the overall rating for this internal audit is assessed as Moderate risk requiring no major concern.

Likelihood	Consequence				
	Insignificant 1	Minor 2	Moderate 3	Major 4	Catastrophic 5
Almost Certain 5	6	7	8	9	10
Likely 4	5	6	7	8	9
Possible 3	4	5	6	7	8
Unlikely 2	3	4	5	6	7
Rare 1	2	3	4 <input checked="" type="checkbox"/>	5	6

1.5 Acknowledgement

We would like to take this opportunity to thank DPI's Management and staff for their co-operation and assistance during the course of our examination.

2 Detailed findings

Our findings have been derived from our examination of the transfer of DPI responsibilities for OH&S in the mining industry to VWA.

Key Internal Audit Question 1: Is there clear awareness of responsibilities for OH&S in the mining industry that were transferred from DPI to VWA?

2.1 Awareness of responsibilities for OH&S in the mining industry that were transferred from DPI to VWA

2.1.1 Observations

Our examination of documentation and subsequent discussions with DPI staff highlighted that relevant DPI staff in the Minerals and Petroleum division have a clear understanding in relation to responsibilities for OH&S in the mining industry that were transferred from DPI to VWA.

The responsibilities for OH&S in the mining industry transferred from DPI to VWA are clearly detailed in the Memorandum of Understanding (MoU) between the DPI and VWA. The MoU is effective from 1 January 2008 and sets out the common understanding between the parties as a voluntary statement of intent and contains the commitment of both parties at the time the MoU was signed and for the duration of the MoU.

The MoU and its associated schedules establish arrangements for the administration of occupational health and safety in the earth resources sector after the transfer of responsibility to WorkSafe Victoria on 1 January 2008. The MoU is available on the DPI website: www.dpi.vic.gov.au.

Schedule 1 "Transitional Arrangements" (Expires on 1 July 2008) provides information in relation to the following:

- First six months
- Incident notification
- Open notices and directions
- Inquiries and complaints
- Explosives licences and high consequence dangerous goods licenses and permits
- OHS Regulation transfer from DPI to WorkSafe Victoria Steering Committee

Schedule 2 "Ongoing Arrangements" provides information in relation to the following:

- Working together
 - Field staff communication
 - Overlapping responsibilities
 - Provision of advice to external stakeholders
 - Investigations and enforcement
 - Emergency / crisis response
 - Work and operations plans
 - Operational issues arising from earth resources legislation
- Sharing information
 - Tenement numbers and licensee details
 - Sharing intelligence
 - Historical records
 - Incident notification
 - Inquiries and complaints
 - Statistical reporting

Department of Primary Industries

- Representation and consultation forum
- Memorandum of Understanding Governance
- Mines
- Extractive industries
- Petroleum / Geothermal.

The above requirements included in the MoU stem from the requirements of both the Occupational Health and Safety Act (2004) and the Dangerous Goods Act (1994).

A copy of the MoU is included in Appendix 2 of this report.

In addition to the above, a Steering Committee was established in November 2006 to promote awareness and manage the transfer of responsibility and knowledge for OH&S in the mining industry from DPI to VWA. The Steering Committee meets monthly to manage issues that have arisen during the month and to determine procedures that may need to be implemented. The Steering Committee will meet until 30 June 2008, after which time, the need for the Steering Committee going forward will be reviewed.

The Steering Committee comprises 3 members from DPI and 3 members from VWA. The members are as follows:

- Richard Aldous (Executive Director, Minerals and Petroleum, DPI)
- Phil Roberts (Director, Minerals and Petroleum, DPI)
- John Mitas (Manager, Minerals and Extractive Operations, DPI)
- Geoff Thomas (VWA) (later replaced by Chris Webb)
- Pieter Rienks (VWA)
- Cath Duane (VWA).

2.1.2 Suggestions for improvement

It was noted in discussions with management that the Steering Committee established to oversee the transfer of responsibility for OH&S in the mining industry will meet until 30 June 2008, after which time, the need for the Steering Committee going forward will be reviewed.

In reviewing the need for the Steering Committee post 30 June 2008, factors that DPI and VWA should consider include:

- The nature of agenda items over the past months. A shrinking agenda may suggest that the Steering Committee will not be required going forward.
- The nature of issues arising within Steering Committee meetings over the past months. The existence of minor issues capable of being dealt with via DPI / VWA line managers may suggest that the Steering Committee will not be required going forward.
- Confirmation of the mechanism to address any emerging / future issues.
- Level of understanding of where residual responsibilities (if any) will reside.
- Whether the responsibilities as described in the MoU are adequately defined and whether any amendments are required to the MoU.
- Whether it may be appropriate for the committee to continue to meet and discuss operational activities. This may be an appropriate forum to share industry knowledge that may be useful in relation to completing site inspections and audits of Work Authorities.

2.1.3 Management response

Management agree with the observations noted.

Department of Primary Industries

2.1.4 Follow up actions to be completed

	Description of Action	Person Responsible	Date for Completion
1	DPI will consider the factors included in the suggestions for improvement when reviewing the need for the Steering Committee post 30 June 2008.	Phil Roberts	30 June 2008

Key Internal Audit Question 2: Is the residual risk to DPI following the transfer of responsibilities for OH&S in the mining industry to VWA appropriately understood and resourced? E.g. residual risks associated with public safety

2.2 DPI's understanding and resourcing of the residual risk following the transfer of responsibilities for OH&S in the mining industry to the VWA

2.2.1 Observations

Our examination of documentation and subsequent discussions with DPI staff highlighted that relevant DPI staff in the Minerals and Petroleum division have a clear understanding of the residual risk to DPI following the transfer of responsibilities for OH&S in the mining industry to VWA. It was also noted in discussion with DPI staff that areas of residual risk following the transfer of responsibilities for OH&S in the mining industry to the VWA have been appropriately resourced.

The areas of residual risk to DPI following the transfer of responsibilities for OH&S in the mining industry to VWA are clearly detailed in the MoU.

Schedule 2 "Ongoing Arrangements", of the MoU, in particular, section 1.2 "Overlapping responsibilities" contains the following table which clearly sets out the areas of residual risk to both DPI and VWA.

Safety related Elements	DPI	WorkSafe Victoria
Public safety and amenity	Lead Agency	Support Agency
Public Safety (work related)	Support Agency	Lead Agency
Operational design and licensing	Lead Agency	Support Agency
Variations to operation plans and licenses	Lead Agency	Support Agency
Occupational health and safety	Support Agency	Lead Agency
Explosives	Support Agency	Lead Agency
Blasting impacts (airblasts and ground vibrations)	Lead Agency	Support Agency
Site rehabilitation	Lead Agency	-

It was noted in the MoU and following discussions with management that DPI and WorkSafe Victoria will consult on matters where their jurisdictions overlap, with the lead agency being the agency with the highest degree of control over the issue.

The following activities are undertaken in each of the areas where DPI will be acting as the lead agency:

Public safety and amenity

DPI is responsible for ensuring that prior to commencing work, each Work Authority has sufficient public liability insurance and that it is maintained at all times. Work Authorities include information in relation to the use of fencing, gates, access to sites, blasts, fly rock and signage in their work plans and operational plans which are submitted to DPI for approval prior to the commencement of any work to be completed. DPI ensures that the public safety requirements are met through site visits or audits that may be conducted to ensure that the work plan/operational plan is adhered to.

Operation design and licensing

Work Authorities that require a license for mining or to excavate a quarry submit a plan of their proposed work area (work plan) to DPI for approval. In relation to Petroleum sites, Work Authorities are required to submit an operational plan to DPI for approval.

Department of Primary Industries

DPI will complete a review of the work plan/operational plan to determine if there are any further requirements before the site can be used for the purpose intended. The applicant for a Work Authority must then arrange a site meeting with DPI, the appropriate local council, Aboriginal Affairs and other agencies that may be deemed appropriate.

As at 1 January 2008, WorkSafe Victoria may attend the site meeting to consider OH&S aspects of the site. The applicant for a Work Authority will then consider all comments made during the site visit by each agency and create a work plan to be submitted to DPI for approval. All work authority holders must carry out their work in accordance with a work plan/operational plan approved by DPI. The work plan/operational plan stipulates standard conditions and work practices that individual authorities must abide by when completing their work. It also sets out the nature of the Work Authorities' activities and necessary actions to mitigate the risk of any breaches of legislation.

DPI must also forward the work plan to the Department of Sustainability and Environment and WorkSafe Victoria for review prior to providing approval.

It is DPI's responsibility to ensure that Work Authorities are not in breach of their work plan/operational plan. In relation to mining and extractive sector, DPI use a Risk Screening Priorities Matrix to determine the risk of an Authority being in breach of their work plan. The matrix is divided into 5 priority descriptions. Each description outlines site compliance and potential risk factors. The risk assessment establishes the frequency of audits conducted by DPI. All risk assessments are documented and filed both electronically and in hardcopy and access is provided to all branch employees. An initial audit is completed at the commencement of the project and an assessment is made as to the risk of the Work Authority being in breach of the approved work plan. An annual review of the risk assessment of each entity is completed, however if a complaint is made or DPI obtains information of increased risk for the Work Authority holder or the industry, they will perform another risk assessment.

In relation to the petroleum sector, DPI will conduct at least two visits at the beginning of each project. Based on the results of the two initial visits, they will assess the risk of the Work Authority holder breaching the approved operational plan. If there is a high risk of a breach occurring, then DPI will issue notices and directions to the Work Authority holder and conduct follow up inspections to ensure that the risk of issues is mitigated.

The results of each inspection for all inspections are documented and filed within Recfind.

Variation to operation plans and license

DPI is responsible for administering any changes that may be required to the approved work plan/operation plan. For example, if a Work Authority has an existing work plan to excavate or mine in a certain area, however would like extend the area they excavate, they must submit a variation to their work plan to DPI.

Once DPI receives a variation to the work plan, they will inspect the site to ensure that the variation will not have a detrimental effect on the surrounding areas or the environment. Once the site has been inspected, the variation is approved. Site inspections are completed on all site variation submissions.

Blasting impacts (airblast and ground vibration)

All Work Authorities holders must obtain approval from DPI through their work plan for any blasting that may be required. DPI must ensure that the site where the blasting will take place is not near residential areas, or roads etc. A design must be submitted to DPI in relation to the design of the site and the mechanisms in place to prevent any fly rocks (debris) from injuring people. Once DPI is satisfied that public safety has been considered and precautionary measures have been implemented by the Work Authority holder in relation to blasting activities, they will approve the work plan.

DPI may inspect the site if they receive a complaint or during a routine audit.

Site rehabilitation

Site rehabilitation is set out and approved by DPI in the Work Plan. Work Authority holders must ensure that site rehabilitation is an ongoing process and that it is carried out as soon as possible. To ensure that sites are appropriately rehabilitated, DPI requires that each Work Authority holder provide a bond prior to any work commencing on the land. This is done to ensure that the site rehabilitation processes that are set out in the work plan/operations plan are adhered to. The Work Authority holder needs to consider the sites Ecological Vegetation Class (EVC) (i.e. what vegetation is required in the area) when completing their work plan.

Department of Primary Industries

Once the Work Authority holder has completed the site rehabilitation procedures set out in the work plan/operational plan, DPI will inspect the site and if satisfied, will give back the bond that was collected at the start of the project. DPI will keep the bond if the site has not been rehabilitated as per the work plan.

The following activities are undertaken in each of the areas where DPI will be acting as the support agency:

Public safety (work related)

DPI is responsible for providing advice and assistance to WorkSafe in relation to work related public safety. All Work Authority holders must abide by the regulations set out in the OH&S Act 2004 including for example, appropriate harnesses equipment to ensure that there are no injuries or fatalities in the work place. DPI will only act in an advisory role when and if required and it is the responsibility of WorkSafe to conduct any site visits.

Occupational health and safety

Inspections and audits of mining, extractive sites and petroleum sites will now be completed by WorkSafe and DPI will act in an advisory role or provide assistance where WorkSafe employees do not have the knowledge to complete the task at hand. Advice will be provided in relation to compliance with the OH&S Act 2004.

Explosives

WorkSafe is responsible for assessing and issuing explosives licenses and high consequence dangerous goods licenses, however they may seek the advice or assistance of DPI if WorkSafe employees do not have the technical experience to assess an application or complete an audit in this transitional period.

The areas of residual risk, as noted above, are resourced by DPI via the following management team:

- Richard Aldous, Executive Director, Minerals and Petroleum
- Phil Roberts, Director, Minerals and Petroleum Regulation
- John Mitas, Manager, Minerals and Extractive Operations
- Terry McKinley, Manager Petroleum and Geothermal Operations
- 5 District Managers.

2.2.2 Suggestions for improvement

Not applicable

2.2.3 Management response

Management agree with the observations noted.

No further action required

Key Internal Audit Question 3: Can DPI demonstrate that it has made all practicable attempts to ensure a comprehensive transition of OH&S responsibility to VWA?

2.3 The manner in which the OH&S and mining industry knowledge was transferred from DPI to VWA

2.3.1 Observations

Our examination of documentation and subsequent discussions with DPI staff highlighted that OH&S and mining industry knowledge was transferred from DPI to VWA via monthly Steering Committee meetings.

As noted in finding 2.1, a Steering Committee was established in November 2006 to promote awareness and manage the transfer of responsibility and knowledge for OH&S in the mining industry from DPI to VWA. The Steering Committee meets monthly to manage issues that have arisen during the month and to determine procedures that may need to be implemented. The Steering Committee will meet until 30 June 2008, after which time, the need for the Steering Committee going forward will be reviewed.

The Steering Committee comprises 3 members from DPI and 3 members from VWA. The members are as follows:

- Richard Aldous (Executive Director, Minerals and Petroleum, DPI)
- Phil Roberts (Director, Minerals and Petroleum, DPI)
- John Mitas (Manager, Minerals and Extractive Operations, DPI)
- Geoff Thomas (VWA) (Replaced by Chris Webb)
- Pieter Rienks (VWA)
- Cath Duane (VWA).

Minutes of each Steering Committee meeting are taken and retained by DPI.

In addition to the above, it was noted in discussion with DPI staff members that a number of other activities have been undertaken to assist in the transfer of OH&S and mining industry knowledge from DPI to VWA and DPI and VWA to the mining industry. These activities include the Tripartite forum, the production of a minerals and extractive operations newsletter, training and presentations and a letter from Worksafe Victoria to all mines and quarries. Each of these activities is discussed in turn.

Tripartite forum

A key activity that has been undertaken to transfer knowledge from DPI to VWA and to the industry has been the Tripartite Forum. This is a stakeholder reference group for the transition process and facilitated the establishment of VWA capacity/systems, which was chaired by DPI throughout 2007. In 2008, VWA became the chair of the forum. Industry unions and electrical safety regulators also attend the forum and provide feedback on issues discussed.

Minerals and Extractive Operations Newsletter

A Minerals and Extractive Operations Newsletter is published by DPI on a quarterly basis.

The Minerals and Extractive Operations Newsletter aims to promote the enhancement of the safety culture in the Victorian mining and quarrying industry and to communicate statutory requirements to industries and operators, to provide an update on Departmental activities and to alert the industry on significant issues and to potential risks and controls.

The Minerals and Extractive Operations Newsletter features information and articles on key topics such as industry occurrences, mining and mineral processing projects, safety, environmental issues and Significant Incident reports.

The newsletter is made available to the industry via the DPI website: www.dpi.vic.gov.au. A copy is also sent to each licence holder in Victoria.

Department of Primary Industries

Training sessions and presentations

Training sessions and presentations were predominately run by WorkSafe Victoria however DPI employees were able to attend. WorkSafe held information sessions in regional areas for all managers and employees in the mining sector to inform them of the changes and the role of DPI and WorkSafe Victoria.

Letter from Worksafe Victoria

A letter was sent to all mines and quarries by WorkSafe Victoria informing them of the changes in processes and their expectations in relation to OH&S requirements.

2.3.2 Suggestions for improvement

Not applicable

2.3.3 Management response

Management agree with the observations noted.

No further action required

<p>Key Internal Audit Question 4: Are responsibilities for the retention of documentation understood?</p>
--

2.4 Responsibilities for the retention of documentation in relation to OH&S in the mining industry created prior to 1 January 2008

2.4.1 Observations

Our examination of documentation and subsequent discussions with DPI staff highlighted that relevant DPI staff in the Minerals and Petroleum division have a clear understanding of the responsibilities for the retention of documentation in relation to OH&S in the mining industry created prior to 1 January 2008.

The MoU clearly details the responsibility for and retention of documentation in relation to OH&S in the mining industry created prior to 1 January 2008. Schedule 2 "Ongoing Arrangements", in particular, section 2.3 "Historical records" provides as follows:

- 2.3.1 Copies of *recent* OH&S information pertaining to sites have been provided to WorkSafe Victoria electronically. There is some information located on hard copy files that will remain with DPI. In the future, WorkSafe Victoria may wish to view this historical information. The agencies will share access to current information as arranged and agreed through local managers.

The MoU outlines the following responsibilities for DPI and VWA in relation to historical records:

DPI	WorkSafe
Store relevant files and allow WorkSafe to access this information upon request	Inspectors, investigators, Lawyers and Managers to request access to historical records via the relevant District or Operational Manager.

It was noted in discussions with DPI staff that as per the MoU, *recent* information relates to information obtained after 1 November 2007. *Recent* information in relation to OH&S was electronically forwarded to WorkSafe Victoria by DPI. All hardcopy files in relation to explosives were forwarded to WorkSafe Victoria as at 1 January 2008. All other hardcopy files remain with DPI and access is provided to WorkSafe Victoria upon request.

It was also noted in discussion with management that all hardcopy files have a unique identification number and are filed within DPI's Recfind system. Recfind is a data management system that allows DPI to identify the location of each individual file. It was noted in discussions with management that all files transferred to WorkSafe Victoria have been noted as such in Recfind.

2.4.2 Suggestions for improvement

Not Applicable

2.4.3 Management response

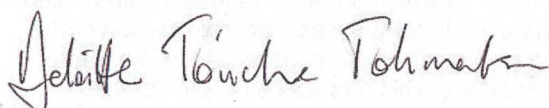
Management agree with the observations noted.

No further action required

3 Statement of Responsibility

This engagement was performed in accordance with the terms contained in our contract dated 22 May 2008. In performing this service, Deloitte applied APS8, the Professional Statement on Management Consulting Services issued by the Australian Accounting Bodies.

- Where Deloitte has provided advice or recommendations to the Department of Primary Industries, we are not responsible for whether, or the manner in which, suggested improvements, recommendations, or opportunities are implemented. The management of the Department of Primary Industries, or their nominees, will need to consider carefully the full implications of each of these suggested improvements, recommendations, or opportunities, including any adverse effects and any financing requirements, and make such decisions, as they consider appropriate.
- The work performed did not constitute an assurance engagement in accordance with Australian Auditing Standards.
- The matters detailed in our report are only those which came to our attention during the course of performing our procedures and did not necessarily constitute a comprehensive statement of all the weaknesses or issues that exist or actions that might be taken. Accordingly, management should not rely on our report to identify all weaknesses and issues that may exist in the systems and procedures discussed. The report should be read in the context of the scope of our work. Had we performed additional procedures or had we performed an assurance engagement in accordance with Australian Auditing Standards, other matters might have come to our attention that would have been reported to you.
- This report should not be relied upon as a substitute for actions that the Department of Primary Industries should take to assure itself that controls are operating efficiently.
- This report and all deliverables have been prepared for the use of the Department of Primary Industries and is confidential. No responsibility to any third party is accepted as the report has not been prepared, and is not intended, for any other purpose.



Deloitte Touche Tohmatsu
180 Lonsdale Street
Melbourne
June 2008

Contacts

David Boyd	Partner	(03) 9208 7077
Roderick Marsh	Director	(03) 9208 7685
Ruth Farrugia	Manager	(03) 9208 7821
Maria Apostolopoulos	Senior Analyst	(03) 9208 6107

Appendix 1 – Scope

Introduction

As part of the outsourced Internal Audit Services provided to the Department of Primary Industries, Deloitte Touche Tohmatsu (Deloitte) will conduct an examination of the transfer of DPI responsibilities for Occupational Health and Safety (OH&S) in the mining industry to the Victorian WorkCover Authority (VWA).

This engagement will be performed in accordance with APS8, the Professional Statement on Management Consulting Services, issued by the Australian Accounting Bodies.

This document sets out the engagement objectives, scope, methodology, deliverables, timetable and engagement team.

Background

In 2006, the former Minister for Energy Industries and Resources commissioned an inquiry, led by Mr Neil Pope, of the regulation of OH&S in Victoria's earth resource industries.

The key recommendation arising out of this inquiry was the transfer of responsibility for OH&S regulation of earth resource industries from DPI to VWA. The Victorian Government accepted this recommendation, which took effect from 1 January 2008.

While VWA assumed responsibility for regulating the earth resources sectors on 1 January 2008, DPI continues to regulate environmental, rehabilitation, compliance, public safety and community consultation matters for the minerals, extractive, geothermal and petroleum sectors. A Memorandum of Understanding (MoU) was developed to clarify responsibilities between DPI and VWA.

Key Internal Audit Questions

The following questions will be addressed as part of this Internal Audit project:

1. Is there clear awareness of responsibilities for OH&S in the mining industry that were transferred from DPI to VWA?
2. Is the residual risk to DPI following the transfer of responsibilities for OH&S in the mining industry to VWA appropriately understood and resourced? E.g. residual risks associated with public safety.
3. Can DPI demonstrate that it has made all practicable attempts to ensure a comprehensive transition of OH&S responsibility to VWA?
4. Are responsibilities for the retention of documentation understood?

Objective and scope

The objective of this internal audit project is to examine the transfer of DPI responsibilities for OH&S in the mining industry to the VWA.

This internal audit will consider the following:

- Awareness of responsibilities for OH&S in the mining industry transferred from DPI to VWA
- DPI's understanding and resourcing of the residual risk following the transfer of responsibilities for OH&S in the mining industry to the VWA
- The manner in which OH&S and mining industry knowledge was transferred from DPI to VWA
- Responsibility for and retention of documentation in relation to OH&S in the mining industry created prior to 1 January 2008.

Methodology

The key steps in our examination will include:

- developing an understanding of the processes and determining the associated risks through discussion with relevant officers, examining policy and procedure manuals and transaction walkthroughs
- identifying and discussing key risk areas and control procedures with management
- developing and conducting a limited testing program based on the processes and activities stated above
- assessing control effectiveness against key risks
- reporting of findings noted.

Please note that Deloitte will not meet with VWA as part of this assignment.

Deliverables

The key deliverables from this project are as follows:

- an agreed scope for this examination
- a final report presenting (on an exception basis):
 - findings and insights
 - business implications
 - suggested improvements
 - Management responses, including agreed actions, responsibilities and timing.

Timetable and resources

Our proposed timetable is as follows:

Commence fieldwork	12 May 2008
Draft report submitted to client sponsor for management response	26 May 2008
Management response required	9 June 2008
Issue final report	16 June 2008
Estimated Deloitte consulting hours	105 hours

Responsibility

In performing this engagement, Deloitte will apply APS8, the Professional Statement on Management Consulting Services, issued by the Australian Accounting Bodies. The procedures that we will perform will not constitute an assurance engagement in accordance with Australian Auditing Standards and consequently no assurance will be provided.

Our report will be prepared solely for the use of the Department of Primary Industries. No responsibility to any other party shall be accepted, as our report will not be prepared, and shall not be intended for any other purpose. Our report will contain a statement of responsibility that will draw attention to management's responsibility for establishing and maintaining an effective control structure, including control procedures in relation to OH&S Regulation in Mining.

This engagement is conducted in accordance with the terms and conditions of our contract dated 22 May 2008.

Department of Primary Industries

Deloitte personnel

David Boyd	Partner
Roderick Marsh	Director
Ruth Farrugia	Manager
Lilendra Samaranayake	Manager
Winnie Gu	Senior Analyst

Key contacts

Phil Roberts	Director, Minerals and Petroleum Regulation, Department of Primary Industries
John Mitas	Manager, Minerals and Extractive Operations, Department of Primary Industries

Stakeholders

Richard Aldous	Executive Director, Minerals and Petroleum, Department of Primary Industries
Phil Roberts	Director, Minerals and Petroleum Regulation, Department of Primary Industries
John Mitas	Manager, Minerals and Extractive Operations, Department of Primary Industries

Acceptance

Richard Aldous, Executive Director, Minerals and Petroleum, Department of Primary Industries, accepted the above scope for the OHS Regulation in Mining project on 18 April 2008.

Peter Lewinsky, Chair, Audit & Risk Management Standing Committee, Department of Primary Industries, accepted the above scope for the OHS Regulation in Mining project on 15 May 2008.

Department of Primary Industries

Appendix 2 – Memorandum of Understanding

Memorandum of Understanding Victorian WorkCover Authority and Department of Primary Industries



PARTIES

Victorian WorkCover Authority ABN 90 296 467 627 ("WorkSafe Victoria"), is the statutory authority responsible for administering the *Occupational Health and Safety Act 2004*, the *Dangerous Goods Act 1985*, the *Equipment (Public Safety) Act 1994*, the *Road Transport (Dangerous Goods) Act 1995*, the *Accident Compensation Act 1985*, the *Accident Compensation (WorkCover Insurance) Act 1993*, the *Workers Compensation Act 1958* and regulations pursuant to those Acts.

AND

Department of Primary Industries ABN 90 719 052 204 ("Department of Primary Industries"), the authority responsible for administering various legislation including but not limited to the *Geothermal Energy Resources Act 2005*, the *Mineral Resources (Sustainable Development) Act 1990*, the *Extractive Industries Development Act 1995*, the *Petroleum Act 1998*.

1. PURPOSE

- 1.1 This Memorandum of Understanding (MOU) sets out the common understanding between the parties as a voluntary statement of intent and contains the commitment of both parties at the time the MOU is signed and for the duration of the MOU. The MOU is not intended to create legally enforceable obligations between the parties.

2. TERM

- 2.1 This MOU is effective from 1 January 2008 and continues until the earlier of:
- (a) 31 December 2010; or
 - (b) 3 months from the date of one party's notice in writing to the other notifying of its intention to withdraw from this MOU;
 - (c) immediately where both parties notify each other in writing of their intention to withdraw from it.

3. OBJECTIVES

- 3.1 WorkSafe Victoria and the Department of Primary Industries share the following objectives:
- (a) to assist Victorian earth resources workplaces achieve best practice levels of health and safety for workers and the public and to minimise the impact on the environment; and
 - (b) to ensure the effective co-operation of both parties in the administration of their respective requirements in relation to the matters set out in the Schedules.

- 3.2 This MOU and its associated Schedules establishes arrangements for the administration of occupational health and safety in the earth resources sector after the transfer of responsibility to WorkSafe Victoria from 1 January 2008.

4. UNDERTAKINGS

- 4.1 WorkSafe Victoria and the Department of Primary Industries undertake to give effect to the arrangements and procedures set out in the Schedules.
- 4.2 WorkSafe Victoria and the Department of Primary Industries undertake to establish and maintain liaison contacts to ensure the effective operation of this MOU. Within 14 days of the signing of this MOU, each party will advise the other of their respective liaison contact to whom any communication about the operation of this MOU may be addressed.
- 4.3 WorkSafe Victoria and the Department of Primary Industries undertake to provide information from time to time to inform each other's staff of their roles and responsibilities in areas of potential overlap, and any relevant changes to the regulatory instruments overseen by them.
- 4.4 This MOU will be jointly reviewed by the liaison contacts as agreed in writing between the parties.
- 4.5 WorkSafe Victoria and the Department of Primary Industries will participate and adequately resource the Transition Steering Group established to manage the transfer of health and safety responsibility in the earth resources sectors to WorkSafe Victoria.
- 4.6 WorkSafe Victoria and the Department of Primary Industries will participate in the Earth Resources Tripartite Safety Forum.

5 PRIVACY

- 5.1 WorkSafe Victoria and the Department of Primary Industries agree:
- (a) that any Personal Information as defined in the Privacy Legislation and disclosed by or in connection with this MOU has been collected in accordance with applicable Privacy Legislation, that the individual to whom the information relates has been made aware of the identity of the organisation collecting the information and of the other matters of which the individual is required to be informed under applicable Privacy Legislation, and that the disclosure of the information to, and its use by, the organisation to which it is disclosed is authorised by the individual or by law;
 - (b) agree not to use, disclose, store, transfer or handle Personal Information collected in connection with this MOU except in accordance with applicable Privacy Legislation; and
 - (c) to co-operate with any reasonable request of the other relating to the protection of Personal Information or the investigation of a complaint about the handling of Personal Information.

- 5.2 Privacy Legislation means laws in respect of privacy and the protection of

personal and health information including, without limitation, the *Information Privacy Act 2000* (Vic), the *Health Records Act 2001* (Vic) and the *Privacy Act 1988* (Cth).

6 CONFIDENTIAL INFORMATION

- 6.1 With respect to any information supplied by one party to the other in connection with this MOU designated as confidential, each party agrees to:
- (a) protect the confidential information in a reasonable and appropriate manner and in accordance with any applicable professional standards;
 - (b) use and reproduce confidential information only for the purposes set out in this MOU;
 - (c) not disclose or otherwise make available confidential information other than to its personnel, legal advisers, or Minister who have a need to know the information to give effect to the purposes set out in this MOU.
 - (d) requested under an Act or by a Court

6.2 Paragraph 6.1 shall not apply to information which is:

- (a) publicly known;
- (b) already known to the receiving party; or
- (c) disclosed by either WorkSafe Victoria or the Department of Primary Industries to a third party without restriction.

7 AMENDMENT, VARIATION OR MODIFICATION

- 7.1 This MOU may be amended, varied or modified by a further MOU in writing duly signed by the parties.
- 7.2 Notwithstanding the above, Schedules to this MOU may be added, amended, varied or modified by the insertion of one or more new schedules duly signed by the parties. Schedules to this MOU may be removed by agreement between the parties, such agreement to be attested by a note to that effect duly signed by the parties and appended to this MOU.

**Signed by Victorian WorkCover Authority by
its Chief Executive, Greg Tweedly:**

.....
Greg Tweedly
Dated: 21/12/07

**Signed by Department of Primary Industries by
its Executive Director – Minerals and Petroleum, Richard Aldous:**

.....
Richard Aldous
Dated: 24/12/07.

**Memorandum of Understanding Between the
WorkSafe Victoria and the
Department of Primary Industries**

SCHEDULES

SCHEDULE 1 Transitional Arrangements

(Expires on 1 July 2008)

1. Transitional arrangements

1.1. First six months

1.1.1 The transitional arrangements contained in schedule 1 will as agreed by both parties, expire on 1 July 2008.

1.2 Incident Notification

1.2.1 Receipt and follow-up of OHS and DG incidents becomes WorkSafe Victoria's responsibility from 1 January 2008 however, it is possible that duty holders may continue to use existing familiar mechanisms during times of stress involving an incident. If an OHS or DG complaint is received at any DPI office or to any DPI staff member:-

- DPI will forward to WorkSafe Victoria any written information received and notify WorkSafe Victoria as soon as possible on 132 360; and
- DPI will advise the Duty holder of the correct procedure

1.3 Open Notices and Directions

1.3.1 Notices issued by DPI staff under WorkSafe Victoria's legislation that have not been finalised will be closed out by WorkSafe Victoria staff working in cooperation with the DPI staff who issued the Notices.

1.4 Inquiries and Complaints

1.4.1 Receipt and follow-up of OHS and DG complaints becomes WorkSafe Victoria's responsibility from 1 January 2008 however, it is possible that Duty holders may continue to use existing familiar mechanisms and not be aware of the change of responsibility and will need to be advised accordingly. The subject of some complaints may relate to areas of overlapping of responsibility. WorkSafe Victoria is to be notified of any OHS or DG complaints through the Advisory Service on 1800 136 089.

1.5 Explosives licences and high consequence dangerous goods licences and permits

1.5.1 WorkSafe Victoria is responsible for processing of these licences from 1 January

2008. For applications received by DPI after 1 November 2007 but not completed, processing will be completed by WorkSafe Victoria.

	DPI	WorkSafe Victoria
Applications and enquiries	<ul style="list-style-type: none"> Forward applications or parts thereof (including Police and ASIO reports) received in error to WorkSafe Victoria's licensing branch as soon as possible Forward telephone enquiries to WorkSafe Victoria's licensing branch on telephone 1300 852 652. 	Process applications and handle telephone enquiries.
Technical advice	Provide technical advice upon request from WorkSafe Victoria	Conduct assessment process
RTO arrangements	Assist WorkSafe Victoria in the conduct of an initial audit of the activities of the Registered Training Organisation to ensure the process is sufficiently rigorous and meets Duty holder needs.	Oversee arrangements with the Registered Training Organisation through monitoring and auditing activities.

1.6 OHS Regulations transfer from DPI to WorkSafe Victoria Steering Committee

1.6.1 After the OHS Regulations transfer from DPI to WorkSafe Victoria, the Steering Committee will continue to meet to deal with transition issues until 30 June 2008. DPI and WorkSafe Victoria will jointly review the need for the steering committee to continue beyond 1 July 2008.

SCHEDULE 2 On-going Arrangements

1. Working together

1.1 Field Staff Communication

- 1.1.1 All field staff whose work relates to health and safety will have a copy of this Schedule or have access to it.
- 1.1.2 Relevant publications (hard copy and electronic) produced by WorkSafe Victoria and the Department of Primary Industries will be circulated and used by both organisations.
- 1.1.3 WorkSafe Victoria and the Department of Primary Industries will liaise in regard to arranging for appropriate staff to participate in relevant training conducted by either organisation.

1.2 Overlapping responsibilities

- 1.2.1. Both agencies have objectives in their legislation that dictate responsibility for public safety matters and the use of explosives. WorkSafe Victoria has responsibility for public safety arising from work-related activities.
- 1.2.2. WorkSafe Victoria and DPI will consult on matters where their jurisdictions overlap with the lead agency being the agency with the highest degree of control over the issue. (Note safety aspects of gathering lines under the Petroleum Act 1998 will also be referred to EnergySafe Victoria [ESV].)

Safety related elements	DPI	WorkSafe Victoria
Public safety and amenity	✓ Lead Agency	✓ Support Agency
Public safety (work related)	✓ Support Agency	✓ Lead Agency
Operation design and licensing	✓ Lead Agency	✓ Support Agency
Variations to operation plans and licences	✓ Lead Agency	✓ Support Agency
Occupational health and safety	✓ Support Agency	✓ Lead Agency
Explosives	✓ Support Agency	✓ Lead Agency
Blasting impacts (airblast and ground vibration)	✓ Lead Agency	✓ Support Agency
Site rehabilitation	✓ Lead Agency	

1.3. Provision of Advice to External Stakeholders

- 1.3.1 WorkSafe Victoria and DPI will work together to ensure good communication of advice which will assist both WorkSafe Victoria and DPI to effectively administer their respective legislation and to inform and educate Duty holders

accordingly.

	DPI	WorkSafe Victoria
Technical advice	<ul style="list-style-type: none"> Sustainable development including design, safe operating standards, approval of work and operations plans, protection of people and site rehabilitation. 	<ul style="list-style-type: none"> Occupational health and safety; Dangerous Goods including licensing.

1.4. Investigations and Enforcement

- 1.4.1 Any reports resulting from investigations of incidents covered by this Schedule will be made available to both parties (subject to legislated restrictions on disclosure of information).
- 1.4.2. Investigations into occupational health and safety matters will be conducted by WorkSafe Victoria.
- 1.4.3. DPI will where practicable provide advice and specialist support where requested by WorkSafe Victoria.
- 1.4.4. Prosecutions for offences under legislation administered by WorkSafe Victoria will be the responsibility of WorkSafe Victoria.
- 1.4.5. Where investigations disclose evidence that offences involving the jurisdictions of both organisations have arisen from the same set of facts and circumstances, WorkSafe Victoria and DPI will consult with a view to determining the most appropriate legislation to be used for enforcement and or prosecution.
- 1.4.6. Both WorkSafe Victoria and the Department of Primary Industries retain their right to take enforcement actions and prosecute alleged offenders under their respective legislation.
- 1.4.7. Both WorkSafe Victoria and the Department of Primary Industries agree to cooperate in providing information relevant to any investigations and prosecutions and to provide assistance from relevant staff (where permitted by overarching legislation).

1.5 Emergency / crisis response

- 1.5.1 Both agencies will discharge their duties in accordance with the Emergency Management Act. WorkSafe Victoria will request technical assistance from DPI as required.

1.6 Work and Operations Plans

- 1.6.1 OHS is a component of work and operations plans submitted to DPI for approval/acceptance prior to initial commencement of works as well as variations to existing operations. Previously DPI has completed the assessment of the OHS component of the plans as well as the other

components. WorkSafe Victoria will now become a referral agency for the conduct of the assessment of the OHS component of these plans. In some cases, a variation submission will not fundamentally affect OHS on site. In such circumstances WorkSafe Victoria only wishes to be notified of the variation. The triggers for notification as opposed to referral for assessment as well as the criteria assessed by WorkSafe Victoria are contained in the respective service level agreements. The service level agreement will be available to the public via the respective agencies' web sites.

	DPI	WorkSafe Victoria
Assessment	<ul style="list-style-type: none"> Refer work and operations plans for assessment in accordance with the agreed trigger points at the earliest opportunity. Seek clarification if required following receipt of assessment report from WorkSafe Victoria. 	<ul style="list-style-type: none"> Assess work and operations plans OHS components using the agreed criteria. Provide a written recommendation. Complete the assessment within the agreed time.
Notification of receipt of variations	Advise WorkSafe Victoria of newly received variations that do not trigger the requirement to re-assess OHS via the agreed mechanism.	Allocate a coordinator to receive and action the report accordingly.

1.7 Operational issues arising from Earth Resources legislation

- 1.7.1 With OHS no longer being the responsibility of DPI, this creates some operational issues due to the provisions in the existing Earth Resources legislation. Both agencies commit to working collaboratively to reform the legislation so that OHS issues are dealt with under the OHS Act and relevant regulations and to resolve these issues ensuring clarity for both Duty holders and the two agencies.

2. Sharing Information

Exchange of relevant information and records will assist both WorkSafe Victoria and DPI to effectively administer their respective legislation.

2.1 Tenement Numbers and Licensee details

- 2.1.1 DPI issues a unique identifier (tenement number) for each parcel of land for mining, exploration, quarrying, petroleum and geothermal activities. This tenement number is a key piece of information to aid communication between the two agencies and for WorkSafe Victoria to be able to identify and physically locate each site. The issuing of tenements is an on-going

process and therefore will require on-going communication between the two agencies.

	DPI	WorkSafe Victoria
Tenement number and licensee details report	On a monthly basis, generate and send electronically to WorkSafe Victoria, a tenement number report(s) of the current tenement numbers and the licensee contact details as agreed. Part A being the full listing of tenements, Part B changes since the last report.	Allocate a coordinator to receive and action the report(s) received from DPI accordingly.
Future access to the above information directly from GeoVic	View the above as an interim measure until a secure layer of information for WorkSafe Victoria to access can be integrated into GeoVic.	Coordinator to work with DPI to define requirements for access to desired information directly from GeoVic thus no longer requiring the generation of a specific report for WorkSafe Victoria.

2.2 Sharing Intelligence

2.2.1 Inspectors will be in a position to share relevant information about potential identified breaches of the other agency's legislation. Both agencies agree to ensure that such information will be recorded and shared. Where the potential breach involves an area of overlapping or inter-related responsibility, Inspectors from both agencies will work together to resolve the matter.

	DPI	WorkSafe Victoria
Intelligence sharing	<p>If whilst on site, a possible breach of WorkSafe Victoria's legislation is identified, the DPI Inspector will:-</p> <ul style="list-style-type: none"> • Advise the Duty holder verbally; • Include their observation in the body of their field report; and • Advise WorkSafe Victoria as soon as possible via the Advisory Service (1800 136 089) 	<p>If whilst on site, a possible breach of DPI's legislation is observed, the WorkSafe Victoria Inspector will:-</p> <ul style="list-style-type: none"> • Advise the Duty holder verbally; • Include their observation in the body of their entry report; and • Advise DPI as soon as possible via the relevant District or Operational Manager

2.3 Historical records

- 2.3.1. Copies of recent OHS information pertaining to sites have been provided to WorkSafe Victoria electronically. There is some information located on hard copy files that will remain with DPI. In the future WorkSafe Victoria may wish to view this historical information. The agencies will share access to current information as arranged and agreed through local managers.

	DPI	WorkSafe Victoria
Historical records	Store relevant files and allow WorkSafe Victoria to access this information upon request.	Inspectors, Investigators, Lawyers and Managers to request access to historical records via the relevant District or Operational Manager.

2.4 Incident Notification

- 2.4.1 WorkSafe Victoria administers notification requirements under the Occupational Health and Safety Act 2004, the Equipment (Public Safety) Act 1994, the Dangerous Goods Act 1985 and the Dangerous Goods (Road Transport) Act 1995 and their regulations.
- 2.4.2 DPI administers the *Petroleum Act 1998* and *Geothermal Energy Resources Act 2005* which require certain incidents to be notified.

	DPI	WorkSafe Victoria
OHS and DG Incident notification	Advise clients to notify incidents to WorkSafe Victoria through the Incident Notification number 132 360	WorkSafe Victoria jurisdiction – accept notifications
	Forward any written notifications received to WorkSafe Victoria	Record any notifications received from DPI
	Where there is interrelationship – coordinate with WorkSafe Victoria	Coordinate with DPI where interrelationship exists
Petroleum Act 1998 and Geothermal Energy Resources Act 2005	Copies of information received to be provided to WorkSafe Victoria	DPI jurisdiction - incidents to be notified to DPI

2.5 Inquiries and Complaints

2.5.1 The following are the arrangements applying to how DPI and WorkSafe Victoria will handle OHS complaints:

	DPI	WorkSafe Victoria
Inquiries and Complaints	Advise clients to report OHS complaints to WorkSafe Victoria through the Advisory Service on 1800 136 089.	WorkSafe Victoria jurisdiction – respond to complaints as necessary.
	Forward any OHS complaints received to WorkSafe Victoria through the Advisory Service on 1800 136 089.	Record OHS complaints received and resolve.
	Where there is interrelationship – coordinate with WorkSafe Victoria.	Coordinate with DPI where interrelationship exists.
		Refer non OHS DPI inquiries and complaints to DPI

2.6 Statistical Reporting

2.6.1 Previously DPI has performed the statistical reporting function for both OHS and production statistics. These functions will now be split between the respective agencies. The two agencies agree to work collaboratively in sharing the results of the statistical reporting as well as the mechanisms used to collect and analyse the data particularly, so as to minimise any “red-tape” or financial burdens placed on Duty holders as a result of the split responsibility. The production statistics will be of interest to WorkSafe Victoria in terms of the level of production activity within the sectors. Both agencies will work collaboratively to implement actions that seek to minimise “red-tape” for Duty holders to provide the raw data.

	DPI	WorkSafe Victoria
Statistical reporting	<ul style="list-style-type: none"> Collect and analyse production data and forward to the Minerals Council. Send analysis of production data to WorkSafe Victoria six monthly or as required under NMSF agreement. Advise WorkSafe Victoria of current definitions and methodology used in reports. 	<ul style="list-style-type: none"> Collect and analyse OHS data and forward to the Minerals Council. Send analysis of OHS data to DPI six monthly or as required under NMSF agreement. Advise DPI of current definitions and methodology used in reports.

3. Representation and consultation forums

- 3.1 WorkSafe Victoria and DPI will continue to be represented in consultative forums. The DPI Minister represents both agencies at Ministerial Council level (MCMPR) which is responsible for the National Mine Safety Framework.

	DPI	WorkSafe Victoria
National Mine Safety Framework	Consults and advises with Senior Managers on agenda items, joint policy positions, decisions and actions. At steering committee and working group levels, DPI representatives act in a supporting role.	Minister for WorkCover and Senior Managers contribute to decision making and carry out agreed actions. At steering committee and working group levels, WorkSafe Victoria representatives act in the lead role.
Chief Inspectors of Mines Conference (annual)	Representative.	Representative – lead role.
Victorian OHS stakeholder consultation forum(s)	Representative.	Chair and administrator.

4. Memorandum of Understanding (MoU) Governance

- 4.1 The MoU is an important document contributing to the way the two agencies interact on a daily basis. Directors and Operational Managers commit to meeting at least six monthly to review the relevance of the MoU and to discuss learnings especially those associated with areas of overlapping responsibility.

5. Mines

- 5.1 The Department of Primary Industries staff will be involved in mining workplaces (including tourist mines) under the *Mineral Resources (Sustainable Development) Act 1990*. Department of Primary Industries staff will be responsible for carrying out their normal field work in connection with this Act.
- 5.2 Both agencies will maintain and exchange up-to-date lists of contact persons for matters covered in this part of the Schedule.

6. Extractive Industries

- 6.1 The Department of Primary Industries staff will be involved in quarrying workplaces under the *Extractive Industries Development Act 1995*. Department of Primary Industries staff will be responsible for carrying out their normal field work in connection with this Act.
- 6.2 Both agencies will maintain and exchange up-to-date lists of contact persons for matters covered in this part of the Schedule.

7. Petroleum/Geothermal

- 7.1 The Department of Primary Industries staff will be involved in exploration and production workplaces under the *Petroleum Act 1998* and *Geothermal Energy Resources Act 2005*. Department of Primary Industries staff will be responsible for carrying out their normal field work in connection with these Acts.
- 7.2 Both agencies will maintain and exchange up-to-date lists of contact persons for matters covered in this part of the Schedule.

8. Definitions

“DPI” means Department of Primary Industries.

“DG” means dangerous goods.

“OHS” means occupational health and safety.

“respond” means that the relevant party/parties will respond in accordance with documented organisational response procedures.

“notify” means that both parties will contact and inform the other in accordance with agreed documented procedures.

“incident” means an incident defined in Part 5 of the *Occupational Health and Safety Act 2004*.

“Petroleum site” means: a workplace at which work is being done on the portion of land covered by an exploration permit, retention lease or production licence and extends to the centre of the earth under the *Petroleum Act 1998*.

“Geothermal site” means: a workplace at which work is being done on the portion of land covered by an exploration permit, retention lease or production licence and extends to the centre of the earth under the *Geothermal Act 2005*.

“quarry” means:

- (a) a pit or excavation made in land below the natural surface for the purpose of extracting or removing stone if the primary purpose of the extraction or removal is the sale or commercial use of the stone or the use of the stone in construction, building, road or manufacturing works; or
- (b) any place or operation declared by the Minister by notice published in the Government Gazette to be a quarry—
and includes access ways on private land and the works, machinery, plant, equipment, buildings and structures above or below ground used for or in connection with—
- (c) making, enlarging or deepening the pit or excavation; or
 - (d) carrying on the operation; or
 - (e) the extraction or removal of stone from the pit or excavation; or
 - (f) the treatment on or adjacent to the land in which the pit or excavation is made of stone extracted or removed from the land or the manufacture on or adjacent to that land of bricks, tiles, pottery or cement products substantially from stone so extracted or removed;

“stone” means:

- (a) sandstone, freestone or other building stone; or
- (b) basalt, granite, limestone or rock of any kind ordinarily used for building, manufacturing, road making or construction purposes; or
- (c) quartz (other than quartz crystals); or
- (d) slate or gravel; or
- (e) clay (other than fine clay, bentonite or kaolin); or
- (ea) peat; or
- (f) sand, earth or soil; or
- (g) other similar materials;

‘quarrying operations’ means all operations up to and including all the pit area, workshops, administration buildings, crushers, screen houses including conveyors and product stockpiles.

‘mine’ means:

- (a) a workplace at which work is being done under a mining licence granted under the *Mineral Resources (Sustainable Development) Act 1990*;
- (b) a workplace at which exploration within the meaning of the *Mineral Resources (Sustainable Development) Act 1990*, in the form of-
 - (i) underground work of any kind; or
 - (ii) drilling from the surface for coal- bed methane-
is being done under an exploration licence granted under the *Mineral Resources (Sustainable Development Act) 1990*; or
- (c) a workplace at which work is being done under a mining licence granted under the *Mines (Aluminium Agreement) Act 1961* i.e. Alcoa Anglesea coal mine; or

- (d) in relation to a tourist mine within the meaning of the *Mineral Resources (Sustainable Development) Act 1990*, those parts of the mine that are underground and all infrastructure and plant associated with the underground workings.

PRoad

IN WITNESS TO THE ABOVE UNDERSTANDINGS, this Schedule is signed for and on behalf of the parties on the 24th day of December 2007.

Greg Tweedly

on behalf of the
Victorian WorkCover Authority

GREG TWEEDLY
Chief Executive

Date: _____

Richard Aldous

on behalf of the
Department of Primary Industries

RICHARD ALDOUS
Executive Director – Minerals and
Petroleum

Date: 24/12/07

COPY

Deloitte.

Department of Primary Industries

Occupational Health & Safety Regulation in Mining

Scope

April 2008

Project Number 2008-01

Distribution:

Audit & Risk Management Standing Committee

Richard Aldous Executive Director, Minerals and
Petroleum, Department of Primary
IndustriesPhil Roberts Director, Minerals and Petroleum
Regulation, Department of Primary
IndustriesJohn Mitas Manager, Minerals and Extractive
Operations, Department of Primary
Industries**Copies:**

David Boyd Partner, Deloitte Touche Tohmatsu

Roderick Marsh Director, Deloitte Touche Tohmatsu

COPY

Department of Primary Industries

Introduction

As part of the outsourced Internal Audit Services provided to the Department of Primary Industries, Deloitte Touche Tohmatsu (Deloitte) will conduct an examination of the transfer of DPI responsibilities for Occupational Health and Safety (OH&S) in the mining industry to the Victorian WorkCover Authority (VWA).

This engagement will be performed in accordance with APS8, the Professional Statement on Management Consulting Services, issued by the Australian Accounting Bodies.

This document sets out the engagement objectives, scope, methodology, deliverables, timetable and engagement team.

Background

In 2006, the former Minister for Energy Industries and Resources commissioned an inquiry, led by Mr Neil Pope, of the regulation of OH&S in Victoria's earth resource industries.

The key recommendation arising out of this inquiry was the transfer of responsibility for OH&S regulation of earth resource industries from DPI to VWA. The Victorian Government accepted this recommendation, which took effect from 1 January 2008.

While VWA assumed responsibility for regulating the earth resources sectors on 1 January 2008, DPI continues to regulate environmental, rehabilitation, compliance, public safety and community consultation matters for the minerals, extractive, geothermal and petroleum sectors. A Memorandum of Understanding (MoU) was developed to clarify responsibilities between DPI and VWA.

Key Internal Audit Questions

The following questions will be addressed as part of this Internal Audit project:

1. Is there clear awareness of responsibilities for OH&S in the mining industry that were transferred from DPI to VWA?
2. Is the residual risk to DPI following the transfer of responsibilities for OH&S in the mining industry to VWA appropriately understood and resourced? E.g. residual risks associated with public safety.
3. Can DPI demonstrate that it has made all practicable attempts to ensure a comprehensive transition of OH&S responsibility to VWA?
4. Are responsibilities for the retention of documentation understood?

Objective and scope

The objective of this internal audit project is to examine the transfer of DPI responsibilities for OH&S in the mining industry to the VWA.

This internal audit will consider the following:

- Awareness of responsibilities for OH&S in the mining industry transferred from DPI to VWA
- DPI's understanding and resourcing of the residual risk following the transfer of responsibilities for OH&S in the mining industry to the VWA.
- The manner in which OH&S and mining industry knowledge was transferred from DPI to VWA
- Responsibility for and retention of documentation in relation to OH&S in the mining industry created prior to 1 January 2008.

Methodology

The key steps in our examination will include:

Department of Primary Industries

- developing an understanding of the processes and determining the associated risks through discussion with relevant officers, examining policy and procedure manuals and transaction walkthroughs
- identifying and discussing key risk areas and control procedures with management
- developing and conducting a limited testing program based on the processes and activities stated above
- assessing control effectiveness against key risks
- reporting of findings noted.

Please note that Deloitte will not meet with VWA as part of this assignment.

Deliverables

The key deliverables from this project are as follows:

- an agreed scope for this examination
- a final report presenting (on an exception basis):
 - findings and insights
 - business implications
 - suggested improvements
 - Management responses, including agreed actions, responsibilities and timing.

Timetable and resources

Our proposed timetable is as follows:

Commence fieldwork	21 April 2008
Draft report submitted to client sponsor for management response	16 May 2008
Management response required	23 May 2008
Issue final report	30 May 2008
Estimated Deloitte consulting hours	105 hours

Responsibility

In performing this engagement, Deloitte will apply APS8, the Professional Statement on Management Consulting Services, issued by the Australian Accounting Bodies. The procedures that we will perform will not constitute an assurance engagement in accordance with Australian Auditing Standards and consequently no assurance will be provided.

Our report will be prepared solely for the use of the Department of Primary Industries. No responsibility to any other party shall be accepted, as our report will not be prepared, and shall not be intended for any other purpose. Our report will contain a statement of responsibility that will draw attention to management's responsibility for establishing and maintaining an effective control structure, including control procedures in relation to OH&S Regulation in Mining.

Liability limited by a scheme approved under Professional Standards Legislation. This engagement is conducted in accordance with the terms and conditions of our contract dated [Insert contract date].

Deloitte refers to one or more of Deloitte Touche Tohmatsu (a Swiss Verein), its member firms or their respective subsidiaries and affiliates. As a Swiss Verein (association), neither Deloitte Touche Tohmatsu nor any of its member firms has any liability for each other's acts or omissions. Each of the member firms is a separate and independent legal entity operating under the names "Deloitte,"

Department of Primary Industries

"Deloitte & Touche," "Deloitte Touche Tohmatsu," or other related names. Services are provided by the member firms or their subsidiaries and affiliates and not by the Deloitte Touche Tohmatsu Verein.

Deloitte personnel

David Boyd	Partner
Roderick Marsh	Director
Ruth Farrugia	Manager
Lilendra Samaranayake	Manager
Winnie Gu	Senior Analyst

Key contacts

Phil Roberts	Director, Minerals and Petroleum Regulation, Department of Primary Industries
John Mitas	Manager, Minerals and Extractive Operations, Department of Primary Industries

Stakeholders

Richard Aldous	Executive Director, Minerals and Petroleum, Department of Primary Industries
Phil Roberts	Director, Minerals and Petroleum Regulation, Department of Primary Industries
John Mitas	Manager, Minerals and Extractive Operations, Department of Primary Industries

Acceptance

I, Richard Aldous, Executive Director, Minerals and Petroleum, Department of Primary Industries, accept the above scope for the OHS Regulation in Mining project.

Signature

18/4/08

Date

I, Peter Lewinsky, Chair, Audit & Risk Management Standing Committee, Department of Primary Industries, accept the above scope for the OHS Regulation in Mining project.

Signature

15/05/08

Date