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Ms Anthea Harris  
Deputy Secretary, Energy  
Department of Environment, Land, Water and Planning  
Level 3, 8 Nicholson Street  
EAST MELBOURNE VIC 3002

9 December 2020

Dear Ms Harris

**REGULATORY IMPACT STATEMENT FOR THE PROPOSED PHASE-OUT OF OPEN-FLUED GAS SPACE HEATERS**

I would like to thank your staff at the Department of Environment, Land, Water and Planning (DELWP) for working with my team at Better Regulation Victoria on the preparation of a Regulatory Impact Statement (RIS) for the phase-out of Open-Flued Gas Space Heaters (OFGSHs) through supporting the national Gas Technical Regulators Committee (GTRC) issuing a Technical Guidance Bulletin.

As you know, the Commissioner for Better Regulation provides independent advice on the adequacy of analysis provided in all RISs in Victoria. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, is proportionate to the proposal's expected effects, and is written clearly.

In this case, the RIS has considered a range of regulatory options and the Department has recommended a preferred option which will not involve making any Victorian legislative instruments. Therefore, preparing the RIS is not strictly necessary under the *Subordinate Legislation Act 1994* (SLA), but doing so demonstrates DELWP's strong commitment to transparency and thorough policy analysis underpinning the proposal.

I am pleased to advise that the final version of the RIS received by us on 7 December 2020 meets the adequacy requirements set out in the SLA and forms a suitable basis for public consultation.

## Background

If not properly installed and maintained, OFGSHs can spill carbon monoxide (CO) into the living space in which they are installed, which can lead to serious illness and fatalities.

Coroners have found that malfunctioning or poorly serviced OFGSHs operated without sufficient ventilation or under negative pressure conditions in residential settings have resulted in the deaths of three Victorians since 2010.

Recommendations made by the Coroner following the Inquest into the death of Sonia Sofianopoulos (the 2018 Coronial Inquest) are specifically relevant to the options considered in this RIS. In all, in the 2018 Inquest, the Coroner made eight recommendations including to conduct a review of OFGSHs which assesses various options to phase them out.

## Options and Analysis

In this RIS, DELWP considers two different types of options for phasing out OFGSHs and managing the associated risks:

- Phase-out options to manage the risk associated with future installation of OFGSHs; and
- Transitional measures to manage the risk of already-installed OFGSHs, particularly mandating the installation of CO alarms.

### Phase-out options

The main analysis in the RIS is focused on two phase-out options:

- Option 1: Passing regulations to restrict future installations of OFGSHs, which would take effect from 1 June 2021; and
- Option 2: A fast-tracked standards-based approach, whereby DELWP and Energy Safe Victoria (ESV) would support the GTRC issuing a Technical Guidance Bulletin. These standards would require an automatic shut-off feature in newly-installed OFGSHs, taking effect from 1 January 2022. Non-compliant OFGSHs would not be able to be certified by Conformity Assessment Bodies. Only certified OFGSHs would be permitted to be installed, through existing provisions in the *Gas Safety Act 1997*(Vic).

DELWP uses a breakeven analysis to consider whether the options are likely to offset their costs through lives saved, illness avoided, improved energy efficiency, and other benefits.

DELWP specifically notes that the current Coronavirus (COVID-19) crisis may have various impacts on the analysis – from impacting incomes and fuel prices, to people staying at home and potentially using heaters more. Rather than predicting the exact impact of these changes, the RIS acknowledges their possible impacts and provides some sensitivity analyses to show the results should be reasonably robust to these impacts.

As the two options considered are both expected to break even, DELWP uses a qualitative discussion to decide between them. Option 2 is preferred because of its lower expected costs, its potentially lower impact on the broader gas market, and the relatively small difference in estimated net benefits between the options.

### Transitional measures

Using a similar methodology, the RIS also considers a transitional measure to manage the risks of already-installed OFGSHs, through regulations requiring CO alarms wherever an OFGSH is used. The alarms' safety benefits are not considered to break even with their expected cost of \$7.9 million, and the RIS also notes challenges in supporting or monitoring compliance with this transitional measure. Therefore, DELWP proposes to proceed with just the phase-out standards, but no regulations mandating CO alarms.

### **Preferred Option and Impacts**

The fast-tracked standards-based approach (Option 2) outlined in the RIS is expected to have a small positive impact on CO-related deaths over the next 10 years. The total quantified benefits are estimated at \$7.7 million, including avoiding approximately 403 low-level illnesses (valued at \$2.6 million) and reducing household energy costs by \$3.6 million.

The costs of the approach are estimated to total \$4.9 million, including a \$1.6 million reduction of net industry profits from the sale of OFGSHs and an additional \$2.5 million in costs to households replacing OFGSH over time with safer but more expensive heaters. The balance of \$0.8 million comprises implementation, monitoring and enforcement costs.

The RIS explains that this approach may have a more significant impact on smaller businesses and on those with a less diversified product range. There are unlikely to be many businesses in these categories, and a phase-out is already anticipated by many firms (several have noted to DELWP they are already shifting their manufacturing away from OFGSHs).

DELWP expects that some minor competition impacts may result from the proposed approach (phasing out a type of product), but because this was already anticipated, the competition impacts are not expected to be significant.

### **Implementation and Evaluation**

DELWP will be supported by ESV and the Victorian Building Authority to implement the preferred option, by working with the GTRC (which issues Technical Guidance Bulletins) and in preparing supporting policies as well as guidance for the affected industry.

If a national approach does not eventuate, DELWP and ESV are ready to implement alternative approaches to proceeding with the phase-out through Victorian processes.

In the RIS, DELWP outlines its plans to evaluate the preferred option's effectiveness using a combination of qualitative and quantitative approaches, including interviews with government agencies, industry representatives and health experts, as well as monitoring the statistics around enforcement activities, illnesses and deaths.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on 03 7005 9772.

Yours sincerely



**Anna Cronin**

Commissioner for Better Regulation