

MUNICIPAL ASSOCIATION OF VICTORIA

5 February 2016

Mr Nick Wimbush
Major Hazard Facilities Advisory Committee
Planning Panels Victoria
Level 5, 1 Spring Street
Melbourne Victoria 3000

Dear Mr Wimbush

Major Hazard Facilities Advisory Committee

The Municipal Association of Victoria (MAV) is pleased to make a submission to the Major Hazard Facilities Advisory Committee.

Our submission focuses on providing broad commentary on the Advisory Committee Report. It is expected that councils will make their own detailed submission on how the system could evolve to better manage development around these sensitive areas.

The MAV believes that any new provision aimed at protecting major hazard facilities and pipelines from the encroachment of incompatible uses must be appropriate for both new and existing facilities in both greenfield and established areas and be commensurate with the risk the community faces.

Given the importance of major hazard facilities, any new planning control must be State based to provide consistency. It is also recommended that the development of the necessary strategic work to justify the application of the control be led by a single statewide agency, in collaboration with local government. The ongoing role of such an agency should be retained for new major hazard facilities and pipelines.

Based on the above, we believe any new approach to the management of major hazard facilities and pipelines should consider:

1. The nature, extent, likelihood and consequence of an event at a major hazard facility or a rupture of a high pressure gas pipeline and the regulatory regimes available to manage the risk. This work must be undertaken by Energy Safe Victoria and WorkSafe.
2. Establish whether the risk posed is to the surrounding population or whether it is population density that poses a risk to the operators ability to meet their statutory obligations. The commercial impact of these obligations needs to be understood.
3. Any new planning tool should require input from the major hazard facility, pipeline operator, Energy Safe Victoria and Worksafe but not result in councils taking on any of their risk assessment, mitigation and enforcement responsibilities.
4. Inclusion of a major hazard facility definition based on the WorkSafe definition into the Victoria Planning Provisions.



5. Development of a Ministerial Direction to ensure any planning scheme amendment for a major hazard facilities or pipelines address future rezoning applications, including an appropriate notification process to inform the community of its impact when applied.
6. Use of a consistent zone or overlay control. For transparency, the special nature of the facility must be obvious on any planning certificate. An overlay control may be appropriate, but is not without challenges as 'use' of land does not trigger a planning permit requirement. Consideration should be given to the impact on private property rights in selecting the best fit zones and or overlay control.
7. Clarification that purpose of the control is to minimise health and safety risks associated with major hazard facilities and pipelines. Or is the purpose of the control designed to manage amenity related issues such as dust and noise? Any control addressing must balance the ongoing operation of the facility, but not sterilise surrounding land in separate ownership.
8. If development within a buffer is to be managed by a new control it must be consistent with the broad policy direction within the State Planning Policy Framework. If the purpose of the buffer is to prohibit certain uses or development on adjoining land it may be more appropriate for the land to be purchased or leased by the operator in order for the use of the land to be effectively controlled. If the purpose is to make future buyers aware of the industry, this is not really a proper purpose for a planning control.
9. Use of a consistent zone or overlay as a buffer to cover the Inner and Outer Advisory Areas of major hazard facilities and identified distances from pipelines. When developing the zone or overlay, consideration of risk and consequence should inform its development. For example, is the management of incompatible uses and catchment density within buffers required for all major hazard facilities and identified pipelines? How best should the zone or overlay control deal with reverse amenity impacts particularly where buffers areas is reduced due to encroachment by existing sensitive land uses. Are there other mechanisms outside of land use planning that may be more appropriate?
10. The need to skill up and resource an appropriate independent determining referral authority to provide advice on permits applications within a 'safety buffer' or identified distance from pipelines. The skills required are likely to be well beyond the role and technical skills of local government. The operators of Major Hazard Facilities and pipelines may not be appropriate given the commercial nature of their business. This referral authority must be introduced at the same time as any new control.
11. Any new land use planning responsibility proposed to be allocated to local government must be accompanied by an independent analysis verifying that local government has the capacity and capability of discharging this responsibility.
12. The preparation of GIS mapping (compatible with systems of councils) of approved safety buffers for major hazard facilities and identified distances from pipelines.

In considering major hazard facilities, it might be useful to think about how the level of risk and consequence of an event at a major hazard facilities or pipelines might compare to fire and flood events and how these are managed through the planning system.

Before any new control is created, the MAV also strongly encourages the Advisory Committee to undertake an analysis and quantify the impact of the changes on councils, referral authorities, facility managers and the community. For example, the extent of land that might be incorporated into any 'buffer' and the likely development outcome as a consequence of any change must be understood. This will also be useful to understand the appropriateness of any control in the context of other regulatory instruments available to both the operator and the State Government.

Should you have any queries about this matter, please contact Gareth Hately, Manager Planning, Building and Infrastructure on 9667 5596 or ghately@mav.asn.au

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a long, horizontal, slightly wavy line extending to the right.

ROB SPENCE
Chief Executive Officer