

Planning and Environment Act 1987

Advisory Committee Discussion Paper

Major Hazard Facilities

21 December 2015

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List of Abbreviations

AEO	Airport Environs Overlay
C(number)Z	Commercial Zone
CDZ	Comprehensive Development Zone
EAO	Environmental Audit Overlay
EP Act	<i>Environment Protection Act 1970</i>
DDO	Design and Development Overlay
DEDJTR	Department of Economic Development, Jobs, Transport and Resources
DELWP	Department of Environment, Land, Water and Planning
DGA	<i>Dangerous Goods Act 1985</i>
DPO	Development Plan Overlay
EPA	Environment Protection Authority
ESO	Environmental Significance Overlay
GRZ	General Residential Zone
GTF	Gellibrand Tank Farm
GWMP	Green Wedge Management Plan
IN(number)Z	Industrial Zone
IPO	Incorporated Plan Overlay
IRAE Guidelines	<i>Recommended Separation Distances for Industrial Residual Air Emissions Guidelines EPA Publication 1518 (2013)</i>
IWMP	Industrial Waste Management Policy
LPP	Local Planning Policy
LPPF	Local Planning Policy Framework
MHF	Major Hazard Facilities
MSS	Municipal Strategic Statement
NIRV	Noise from Industry in Regional Victoria (Guidelines)
NPI	National Pollutant Inventory
NRZ	Neighbourhood Residential Zone
OHSR	<i>Occupational Health and Safety Regulations 2007</i>
PAO	Public Acquisition Overlay
PEM	Protocol for Environmental Management

PPWM	Port Phillip Woollen Mills
RGZ	Residential Growth Zone
SEPP	State Environment Protection Policy
SEPP (AQM)	State Environment Protection Policy (Air Quality Management)
SPER	Schedule Premises and Exemptions Regulations
SPPF	State Planning Policy Framework
SUZ	Special Use Zone
The Committee	Major Hazards Facilities Advisory Committee
TOR	Terms of Reference
UGB	Urban Growth Boundary
VCAT	Victorian Civil and Administrative Tribunal
VPP	Victoria Planning Provisions

Introduction

The Minister for Planning has appointed an Advisory Committee under Section 151 of the *Planning and Environment Act 1987* to advise on how risks and amenity around Major Hazard Facilities (MHF) might be better managed and how the principles for applying land use buffers may be applied to other land uses with adverse amenity potential.

The Committee has been provided with a Terms of Reference which provides for initial consultation; exhibition of a Discussion Paper (this paper); Hearings and workshops; and the submission of a report and recommendations to the Minister. Some initial consultation has occurred and submissions have been received.

Issues raised in initial consultation include:

- The role of planning in identifying buffers around MHF
- Notification of neighbours near MHF
- The basis for determining appropriate buffers and separation distances
- Buffers for hazards and amenity
- Buffer requirements around high pressure gas and petroleum pipeline.

It is important to note that the Committee is not starting from the position that the system (i.e. planning around MHF) is 'broken' and needs to be 'fixed'. The Committee has an open mind about how planning is currently undertaken and whether there are improvements to be made.

The Committee has identified a range of issues and 'thought starters' in Chapter 6 of this report. This is not meant to be an exhaustive list and identification of other issues and potential solutions is encouraged.

Comments on this Discussion Paper are welcome and will help to frame the Committee's considerations leading into Hearings and other consultation.

Submissions should be provided to the Committee via the online submission form at:

<http://www.dtpli.vic.gov.au/planning/panels-and-committees/current-panels-and-committees/major-hazard-facilities-advisory-committee>

Submissions must be received by the Committee by 5.00pm on Tuesday 9 February 2016.

1 The Advisory Committee and process

1.1 The Advisory Committee appointment and Terms of Reference

The Minister for Planning appointed Nick Wimbush, Chris Harty and Catherine Wilson as the Major Hazard Facilities Advisory Committee (the Committee) on 4 October 2015 under section 151 of the *Planning and Environment Act 1987*.

Terms of Reference (TOR) dated 24 September 2015 were provided to the Committee as shown in Appendix A. The TOR state that the purpose of the Advisory Committee is to:

...provide advice to the Minister for Planning about improvements to land use planning for areas surrounding major hazard facilities (MHFs), in order to better manage the interface areas between existing and new development and land used for MHFs.

The TOR also state that the Committee is to make recommendations on:

Issues to be addressed for each of Victoria's 40 registered MHFs and principles about how the land use planning system can assist in managing risks and any adverse impacts and principles for applying land use buffers more broadly to other uses with adverse amenity potential.

1.2 The process

The TOR set out the process for the Committee to undertake its tasks. This is essentially:

- Early consultation with nominated parties in the TOR
- Preparation and release of a Discussion Paper for public submissions
- Meet with affected parties (Hearings and/or workshops)
- Prepare a final report for the Minister for Planning.

The list of parties consulted in the preparation of the Discussion Paper is included in Appendix B and a summary of issues raised is included in Chapter 5.

1.3 Approach in the Discussion Paper

The Committee has framed the Discussion Paper using the following approach:

- An outline of how the planning system currently deals with MHF
- An outline of the regulatory regime around MHF
- An overview of relevant planning cases
- A summary of initial consultation responses
- An issues chapter that raises issues for consideration when developing submissions to the Advisory Committee.

2 The current planning system

Planning for Major Hazard Facilities (MHF) is managed in an indirect manner under the Victorian planning system. MHFs are not defined in the *Planning and Environment Act 1987* (the Act), Victoria Planning Provisions (VPP) or any municipal planning scheme.¹

Despite the lack of direct reference to MHF, the planning system refers to community health and safety and the benefit of separation between conflicting land uses in order to further the objectives of planning in Victoria. This is provided for under a performance assessment process that includes triggers for permit applications for both MHF themselves and other forms of surrounding use and development.

2.1 Legislation

(i) Environment Effects Act 1978

It is likely that major new MHF proposals would be required to be considered under the environment effects assessment process. If this is to occur then issues around hazards and appropriate buffers can be considered through that process.

The environment effects assessment process requires thorough consideration of risk and hazards and potential effects on the environment and communities. The environmental assessment process usually includes a transparent public hearing component.

(ii) Planning and Environment Act 1987

The Act establishes the objectives of planning in Victoria under **Section 4** which are:

- (a) to provide for the fair, orderly, economic and sustainable use, and development of land;*
- (b) to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
- (c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
- (d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;*
- (e) to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*
- (f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e);*
- (g) to balance the present and future interests of all Victorians.*

Objectives a, c, f and g are most relevant with respect to MHF and land use planning for these types of facilities as well as surrounding areas, noting the references to fair and

¹ But are defined under the health and safety regime as discussed in Chapter 3.

orderly planning to secure a safe working and living environment and facilitating development that is balanced and appropriate.

Another part of the Act that is relevant for MHF is **Section 60** which deals with what matters a responsible authority (usually the relevant Council or sometimes, for specific matters, the Minister for Planning) must consider in deciding on a permit application.

Section 60(1) outlines relevant matters including, in addition to the planning scheme and objectives of planning in Victoria, any decision and comments of a referral authority², any significant effects which a use or development may have on the environment or which the environment may have on the use and development³ and any significant social effects and economic effects which the responsible authority considers the use or development may have.⁴

Section 60(1A) also provides that a responsible authority may consider, if the circumstances appear to so require, any relevant gazetted State Environment Protection Policy (SEPP)⁵, any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or Council⁶ and any other relevant matter.⁷

2.2 Planning scheme provisions

(i) State Planning Policy Framework

The State Planning Policy Framework (SPPF) includes references to planning for the location of potentially conflicting land uses and their relationship to each other with respect to their effects under the various SPPF policies.

Clause 10 relates to the operation of the SPPF and sets out policies that seek to ensure that the objectives of planning in Victoria under the Act and relevant State policies are fostered through appropriate land use and development planning policies and decision making. Integration of relevant environmental, social and economic factors and conflicting policies are also sought to be achieved in the interests of net community benefit and sustainable development.

Clause 11 relating to settlement seeks to provide for appropriately zoned land that is safe and prevents environmental problems created by siting incompatible land uses close together. Sub-clauses (**Clause 11.09-9**) dealing with regional growth areas (e.g. Great South Coast Regional Growth Plan) also provide, where relevant in some instances, strategies to protect industrial activity from sensitive land uses.

Clause 13 dealing with environmental risks includes references to land use separation and protection of sensitive uses from adverse impacts from other land uses.

² Section 60(1)(d).

³ Section 60(1)(e).

⁴ Section 60(1)(f).

⁵ Section 60(1A)(f).

⁶ Section 60(1A)(g).

⁷ Section 60(1A)(j).

Clause 13.03-1 relates to the use of contaminated and potentially contaminated land and seeks to ensure such land is suitable for future use and development and is used safely. The strategy supporting the policy focuses on information on contamination of land where land has been used for industry, mining or the storage of chemicals, gas, wastes or liquid fuel which may be relevant for existing or former MHF sites. The policy is supported by the following guidelines:

- *State Environment Protection Policy (Prevention and Management of Contamination of Land).*
- *Ministerial Direction No. 1 – Potentially contaminated land.*
- *National Environment Protection (Assessment of Site Contamination) Measure (National Environment Protection Council, 1999).*

Clause 13.04-1 relating to noise abatement seeks to assist the control of noise effects on sensitive land uses and includes the strategy of ensuring development is not prejudiced and community amenity not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area. The policy refers to the following policy guidelines (as considered relevant to MHF):

- *State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No N-1 (in metropolitan Melbourne)*
- *Interim Guidelines for Control of Noise from Industry in Country Victoria (Environment Protection Authority, 1989).*

Clause 13.04-2 relating to air quality, seeks to assist the protection and improvement of air quality and more specifically seeks to ensure wherever possible, that there is suitable separation between land uses that reduce amenity and sensitive land uses. Policy guidelines supporting this policy include:

- *State Environment Protection Policy (Air Quality Management)*
- *Recommended Buffer Distances for Industrial Residual Air Emissions (Environmental Protection Authority, 1990)* in assessing the separation between land uses that reduce amenity and sensitive land uses.⁸

Clause 14.02 relates to water and includes two policies; **Clause 14.02-1** on catchment planning and management and **Clause 14.02-2** on water quality. Both address the importance of protecting water and groundwater quality and look to ensure land uses (including landfills) manage discharge of pollutants and are sited to avoid impacting water and groundwater values. The policies are supported by guidelines related to waterway management and pollution control.

Clause 17 relating to economic development, identifies the need for planning to support and foster economic growth and development by providing land, facilitating decisions, and resolving land use conflicts.

Clause 17.02 relating to industry, is relevant to MHF because it refers to management of impacts between industrial land and sensitive areas. It seeks to ensure the ongoing availability of land for industry.

⁸ Updated and revised in 2013 by EPA Publication 1518.

Clause 17.02-1 relating to industrial land development, seeks to ensure availability of land for industry and supports industrial land use in urban growth areas where appropriate buffer areas can be provided from nearby sensitive land uses. The policy also seeks to protect industrial activity in industrial zones from the encroachment of unplanned commercial, residential and other sensitive uses which would adversely affect industry viability and avoid approving non-industrial land uses, which will prejudice the availability of land for future industrial requirements, in identified industrial areas.

Clause 17.02-2 relating to design of industrial development, is the only State policy that includes a policy guideline that refers specifically to the Victorian WorkCover Authority (trading as WorkSafe Victoria) and in relation to MHF via the Regulations. This policy seeks to facilitate the sustainable development and operation of industry and research and development activity. It includes relevant strategies to:

- Ensure that industrial activities requiring substantial threshold distances are located in the core of industrial areas
- Provide adequate separation and buffer areas between sensitive uses and offensive or dangerous industries and quarries to ensure that residents are not affected by adverse environmental effects, nuisance or exposure to hazards.

Policy guidelines include:

- *Recommended Buffer Distances for Industrial Residual Air Emissions (Environmental Protection Authority, 1990)*
- Any comments from the Victorian WorkCover Authority on requirements for industrial land use or development under the *Dangerous Goods Act 1985* and associated legislation and the *Occupational Health and Safety (Major Hazard Facilities) Regulations 2000* (now superseded by the 2007 Regulations).

Clause 17.02-3 relating to State significant industrial land, seeks to protect industrial land of State significance and includes strategies to ensure availability of land for major industrial development, particularly for industries and storage facilities that require significant threshold distances from sensitive or incompatible uses. Such areas listed in the policy include:

- Dandenong South in the City of Greater Dandenong
- Campbellfield and Somerton in the City of Hume and Thomastown in the City of Whittlesea
- Laverton North in the City of Wyndham and Derrimut in the City of Brimbank.

The policy also seeks to protect those heavy industrial areas from inappropriate development and maintain adequate buffer distances from sensitive or incompatible uses.

Clause 18 relating to Ports, especially **Clause 18.03-1** - Planning for Ports and **Clause 18.03-2** - Planning for Port Environs includes policies that seek (amongst other policies) to:

- Manage any impacts of a port and any related industrial development on nearby sensitive uses to minimise impacts of vibration light spill, noise and air emissions from port activities
- Protect ports and their environs from encroachment of sensitive and incompatible land uses

- Ensure that the use and intensity of development does not expose people to unacceptable health or safety risks and consequences associated with an existing MHF.

The policy is supported by a Port Zone.

Clause 19.03-5 relating to waste and resource recovery seeks to ensure buffers for waste and resource recovery facilities are defined, protected and maintained and to site and manage waste disposal and resource recovery facilities in accordance with the *Waste Management Policy (Siting, Design and Management of Landfills)* (EPA, 2004).

Clause 19.03-6 relating to pipeline infrastructure seeks to plan for the development of pipeline infrastructure subject to the *Pipelines Act 2005* to ensure that gas, oil and other substances are safely delivered to users and to and from port terminals at minimal risk to people, other critical infrastructure and the environment. Relevant strategies to support this objective include:

- Recognition of existing transmission-pressure gas pipelines in planning schemes and protection from further encroachment by residential development or other sensitive land uses, unless suitable additional protection of pipelines is provided
- Planning new pipelines along routes with adequate buffers to residences, zoned residential land and other sensitive land uses and with minimal impacts on sensitive environmental areas.

The policy is not supported by any policy guidelines and there is little recognition of the presence of existing pipelines provided under planning schemes.

(ii) Local Planning Policy Framework

The Local Planning Policy Framework (LPPF) incorporates local planning policy content which varies between municipalities and includes two parts; the Municipal Strategic Statement (MSS) and the Local Planning Policies (LPPs).

The MSS outlines the key strategic planning, land use and development objectives for a municipality and the strategies and actions to achieve the stated objectives. It is intended to elaborate on and implement State policies at a local level. The MSS policies are considered when making decisions on permit applications and to guide planning scheme amendments. MSS policies add a local context towards implementation of how different land uses are planned and development is managed.

LPPs are more targeted forms of policy that guide discretionary decision making. They can include policy guidance on how specific forms of development should occur. Often LPPs provide performance guidance on industrial development including buffers, setbacks, urban design elements and landscaping.

The LPPF policies tend to not relate specifically to MHF and rather seek to more generally address interface issues between industrial and sensitive residential areas.

An example where buffer areas and separation of land uses are covered in MSS and LPPF planning policies can be found at Clause 21.07-4 in the Mornington Peninsula Planning Scheme where the avoidance and minimisation of potential for conflict between industrial

zones and nearby sensitive land uses is recognised and specifically sought under Objective 2 which seeks:

To ensure appropriate development of industrial areas which (amongst other objectives):

Provides and maintains appropriate buffers between residential areas and other land uses which are incompatible with industrial activity.

Similar sentiment is shown in Clause 21.04-3 for industrial land use in the Greater Dandenong Planning Scheme where the emphasis is on the protection of the State significant Industrial 2 Zone (IN2Z)⁹ for its intended purpose and to carefully manage the interface between this zone and other zones.

MSS actions to support these policies is to apply SEPPs to industrial uses in consultation with the Environment Protection Authority (EPA) and require best practice environmental management plans where appropriate.

An example of where specific reference in policy is made to MHF and in an LPP is Clause 22.02 in the Maribyrnong Planning Scheme relating to the Francis Street Mixed Use Area. The policy basis at Clause 22.02-2 states:

The Municipal Strategic Statement identifies the need to provide adequate buffers between industry and major hazard facilities and residential areas.

This precinct is predominantly residential in nature but, due to its proximity to industrial areas has major constraints to a viable long term residential future.

Land in this precinct is located close to the Yarraville Port Industrial Precinct, a large petroleum storage terminal (Mobil) and other impacting industry.

The risk emanating from the petroleum terminal must be taken into account in determining the future planning of this area and the transition away from residential use close to the terminal should be encouraged over time.

An effective amenity and risk buffer between the industrial and residential activity is needed. The extent of an appropriate risk buffer and guidance regarding land use planning is provided in the WorkSafe Victoria's advisory note. Given the potential risk it is intended to rezone the area east of Stephen Street, including the area within the advisory note's inner buffer area, to a more appropriate non residential zone to prevent further residential development. The area to the west of Stephen Street will be rezoned consistent with the existing land uses and developments.

The EPA Recommended Buffer Distances for Industrial Residual Air Emissions document recommends a 300m buffer between the storage of petroleum products in tanks with fixed roofs, such as in this part of Yarraville, and sensitive uses.

⁹ IN2Z allows for those industrial uses that require substantial buffer distances of up to 5000 metres from sensitive uses.

The policy objectives at Clause 22.02-3 with reference to MHF include:

- *To provide an effective risk and amenity buffer to the Yarraville Port Industrial Precinct and the Mobil Yarraville Terminal.*
- *To discourage uses that attract, or accommodate, significant numbers of people and which cannot respond to an emergency.*
- *To ensure that applications respond to amenity and risk/health impacts relating to the Yarraville Fuel Terminal Major Hazard Facility (MHF).*

Relevant decision guidelines under Clause 22.02-5 of the policy include:

- *Advice provided by WorkSafe Victoria as to any risk posed by the Yarraville petroleum terminal to the development or by the development to the terminal.*
- *WorkSafe Victoria's recommendation as to whether the development is appropriate given any risks posed to the development by the Yarraville terminal or to the terminal by the development.*
- *WorkSafe Victoria's recommendation as to any conditions that should be imposed on the development to minimise the risk from the Yarraville petroleum terminal to the development, or from the development to the terminal.*
- *The guidance provided in the document Land use planning near a major hazard facility, WorkSafe Victoria, October 2010.*

Clause 22.02-6 includes the following policy references:

- *Land use planning near a major hazard facility, WorkSafe Victoria, October 2010.*
- *Recommended buffer distances for industrial residual air emissions, Environmental Protection Authority, July 1990.*

(iii) Zones

Conflicting uses are often controlled through the application of zones which encourage complementary uses and discourage or prohibit other conflicting uses in particular locations. This is evidenced by the different emphasis in zones such as residential, commercial and industrial.

Land use separation or buffers are often implemented through the zones by way of various setback requirements that are attached to certain uses and which determine whether that use requires a planning permit or is prohibited. The table of uses in some zones will include conditions which must be met by a use. Some of these conditions make reference to Clause 52.10 – *Uses with Adverse Amenity Potential* to guide determination of any permit trigger.

Regarding MHF, the application of zones is mixed with the Special Use Zone (SUZ) and associated Schedule most commonly applied where there are a few individual situations where zones such as the IN1Z and IN2Z are applied.

The SUZ offers the ability to mould particular land use and development purposes, permit requirements, application requirements and decision guidelines that suit particular types of industries and local context. The SUZ head clause (Clause 37.01) includes the purpose:

To recognise or provide for the use and development of land for specific purposes as identified in a schedule in this zone.

The SUZ also provides scope for Schedules to specify exemptions from notification for types of applications which conveys a level of certainty for industrial development to occur in these zoned areas.

In the Hobsons Bay Planning Scheme, Schedule 2 to the SUZ (SUZ2) has been applied to the *Petroleum Refinery Area*. It includes a purpose to provide for the operation of the petroleum refining industry in a manner that does not affect the safety and amenity of nearby residential areas. Although the Schedule provides exemptions from notification requirements for subdivision and development applications, it does not exempt use applications from notification requirements. Clause 2.0 of the Schedule relating to use of land includes application requirements relating to (amongst other matters):

- *The purpose of the use and the types of processes to be utilised.*
- *The type and quantity of goods to be stored, processed or produced.*
- *Whether a Works Approval or Waste Discharge Licence is required from the Environment Protection Authority.*
- *Whether a licence under the Dangerous Goods Act 1985 is required.*

It also includes information on the likely effects on the neighbourhood with reference to emissions associated with noise, air, land and water.

The Schedule includes decision guidelines which include reference to the effects that the use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects and by having regard to any comments or directions of relevant referral authorities.

The SUZ can also be tailored to support types of industrial activity. In the Mornington Peninsula Planning Scheme, Schedule 1 to the SUZ (SUZ1) related to *Port Related Uses* has been applied to parts of the Hastings Port area in Westernport Bay for industrial activities dependent on the deep water port. Amongst others, the Schedule includes purposes:

- *To provide a location for selected port and industrial uses which depend upon or gain significant economic advantages from the natural deep water channels in Westernport.*
- *To protect the towns of Tyabb, Hastings, Crib Point and Bittern by ensuring that no port industrial development which may have an adverse affect on the amenity or safety of residents occurs in proximity to residential areas.*

The Schedule includes similar application requirements to that of the SUZ2 in the Hobsons Bay Planning Scheme but includes in decision guidelines reference to:

- *The need for and adequacy of risk assessment and environmental response plans.*
- *The effect that the use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects, having regard to Clause 52.10 and any comments or directions of referral authorities.*

Of interest, the Schedule specifically includes restrictions on dwellings where resident safety may be compromised. It also includes provisions to prevent human habitation on the land surrounding the Long Island Fractionation Plant and Crude Oil Storage Tanks which includes reference to referring any application to the Minister administering the *Dangerous Goods Act 1985*.

In a similar manner, the SUZ4 under the Hobsons Bay Planning Scheme covering the area associated with the Altona petrochemical complex includes provisions relating to controlling employee densities on a site at any one time to protect the operations of the petrochemical complex by minimising the exposure risk to health or life of people working or visiting the area.

The IN1Z (Clause 33.01) is a more general zone catering for industrial activity and also includes in a purpose, the safety and amenity of local communities. This is provided by way of determining whether industry is an 'as of right' or 'permit required' use through reference to threshold distances from zones such as residential zones that are included in Clause 52.10. This has the fundamental effect of triggering a permit requirement for an industrial use where it is listed in Clause 52.10 as one which may have an adverse impact on amenity.

Similar to those under the SUZ examples mentioned earlier, the IN1Z includes permit requirements that seek information on matters including:

- The purpose of the use, types of processes, type and quantity of goods to be stored, processed or produced
- Whether Works Approvals or Licences are required from the EPA
- Whether notification is required under the Occupational Health and Safety Regulations
- Whether a licence is required under the *Dangerous Goods Act 1985*
- Whether a fire protection quantity under the *Dangerous Goods (Storage and Handling) Regulations 2000* is exceeded.

The IN2Z is a zone that is applied in a targeted manner and which appears to be the VPP zone that more specifically addresses MHF. The zone includes the purposes:

- *To provide for manufacturing industry, the storage and distribution of goods and associated facilities in a manner which does not affect the safety and amenity of local communities.*
- *To promote manufacturing industries and storage facilities that require a substantial threshold distance within the core of the zone.*
- *To keep the core of the zone free of uses which are suitable for location elsewhere so as to be available for manufacturing industries and storage facilities that require a substantial threshold distance as the need for these arises.*

The IN2Z relates closely to those uses identified in Clause 52.10 that may have adverse amenity potential and supports those industries that require substantial buffers from sensitive uses and developments.

Clause 37.09 relates to the Port Zone and facilitates the use and development of land for port-related purposes. The zone requires permit applications to consider, amongst other matters, where relevant:

- The potential for adverse amenity impacts on land adjacent to the port.
- Visual and built form impacts of proposed buildings and works.
- The ability to meet and conform to required threshold distances outlined in Clause 52.10.
- Maintenance of appropriate threshold distances and prevention of encroachment of sensitive use and development for the long-term sustainable development of the port.
- Any advice sought from the EPA on the application of separation distances, and where relevant, WorkSafe Victoria regarding MHF.

(iv) Overlays

Overlays have been used for some sites and areas to provide for land use buffers whether for environmental purposes or to manage land use conflict. There is no overlay that is specifically designed for MHF and it appears the use of overlays for land use separation purposes has been inconsistent and sporadic. However, there are a number, including the Environmental Significance Overlay (ESO), Design and Development Overlay (DDO), Incorporated Plan Overlay (IPO) and Development Plan Overlay (DPO) that can include Schedules drafted to require land use separation and that require consideration to be given to the effects of development on nearby areas.

The ESO appears to have been used not only for MHF sites themselves, but also for their surroundings and to create a buffer within which future development is alerted to the effects of potential noise and odour impacts from adjoining or nearby land. In relation to the ESO, the Department of Environment, Land, Water and Planning (DELWP) guidelines *Using Victoria's Planning System* states:

This overlay seeks to address areas where the development of land may be affected by environmental constraints such as effects from noise or industrial buffer areas, as well as issues related to the natural environment. The schedule to the zone must clearly set out the environmental significance of the area and the resultant objective of the overlay.

There are a number of examples of this approach including the ESO3 under the Greater Dandenong Planning Scheme for the Eastern Treatment Plant at Bangholme where the siting of odour sensitive uses (noting that the ESO regulates development, not land use) and developments are managed to ensure compatibility with the Plant's operations. Another example is the ESO1 under the Maribyrnong Planning Scheme around the Mobil Yarraville Terminal where potential land use conflicts with respect to safety and amenity are to be minimised and any use or intensity of development does not constrain the ongoing operation and development of the Port of Melbourne and its facilities.

The DDO can be applied to require that surrounding development incorporates appropriate design measures to protect future residents from certain adverse impacts from nearby industry, such as noise. The DDO can also be used to ensure future operations of industry

are protected and not adversely impacted by the development of amenity sensitive uses. For example, DDO4 under the Maribyrnong Planning Scheme has been applied to former industrial land converted to residential use and the overlay Schedule regulated the built form design of new residential development to take into account potential noise and odour impacts from nearby industry.

Under the Greater Geelong Planning Scheme the DDO20 has been applied to industrial zoned areas and their surrounds at Corio to minimise potential negative off-site effects and includes decision guidelines for new development requiring a permit to consider where appropriate the design and siting of existing development in the area and the interface with adjoining zones.

An example of how land use and development abutting a MHF may be managed is the DPO16 under the Brimbank Planning Scheme for parts of Deer Park. Here future land use and development is guided by requiring certain matters relating to health and safety, odours, siting and design and environmental issues are addressed in a Development Plan and where, for any permit applications, health and safety assessment which consider risks and responses from WorkSafe Victoria be undertaken.

(v) Particular provisions

Clause 52.10 – Uses with adverse amenity potential

This Clause lists various types of industrial land uses which have adverse amenity potential and identifies a minimum threshold distance from any part of the land of the proposed use or development to land that is in a residential zone or other sensitive use or zone. The threshold distances are not applied as minimum buffer distances but rather as permit triggers where assessment against relevant decision guidelines and policies may occur. The Clause does not act as a ‘reverse buffer’¹⁰ and does not provide a statutory buffer for the location of residential uses a suitable distance from existing industries. Industries are therefore not completely protected from encroachment of residential uses.

Clause 52.10 does not provide any guidance as to what tests should be applied in relation to the proposed land use and potential conflicting use or how this conflict may be resolved in the event that the relevant buffer distance is encroached upon. It is therefore of little assistance in determining what is an acceptable separation distance between conflicting uses or in preventing encroachment of sensitive uses onto existing impact generating land uses.

Because the Clause is linked to informing whether or not a use requires a permit, it is limited to applying to new proposals that may cause an adverse amenity impact rather than to new proposals that may be affected by an existing use. The lack of clear purposes and decision guidelines creates difficulty with using the Clause to implement ‘reverse buffers’ to protect existing uses from encroachment by sensitive uses.

¹⁰ The concept of a ‘reverse buffer’ is where an impact generating use is protected from encroachment by sensitive uses, rather than the sensitive use being protected from encroachment by a use with adverse impacts.

(vi) General provisions**Clause 65 – Decision guidelines**

Clause 65 relates to decision guidelines for assisting in assessing and determining permit applications. It is based on the premise that because a permit can be granted does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines.

Clause 65.01 provides decision guidelines for approval of an application or plan and requires that before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate the following matters (as relevant to MHF):

- *The matters set out in Section 60 of the Act.*
- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*

The decision guidelines include reference to Section 60 of the Act, the provisions of which have been described earlier.

Clause 66 – Referral and notice provisions

Clause 66 sets out the types of applications which must be referred under Section 55 of the Act or for which notice must be given under Section 52(1)(c) of the Act. The provisions do not apply to the seeking of advice about an application or where a responsible authority may choose to give notice under another sub-section of Section 52(1) of the Act.

Under Clause 66.02-7 relating to industry, the EPA is a determining referral authority for applications which use of land for a purpose listed in Clause 52.10 shown with a 'Note 1'¹¹ or if the threshold distance is not met. WorkSafe Victoria is a determining referral authority¹²

¹¹ Note 1 relates to the threshold distance being variable, dependent on the processes to be used and the materials to be processed or stored.

¹² A determining referral authority can object or specify conditions which a responsible authority must adhere to by either determining to refuse to grant a permit or to include any specified conditions in any permit granted.

for applications which use land for a purpose listed in Clause 52.10 shown with a 'Note 2'¹³ or for any 25% increase in the area of buildings and works and involve any of the following:

- *A fire protection quantity is exceeded under the Dangerous Goods (Storage and Handling) Regulations 2012.*
- *A notification is required under the Occupational Health and Safety Regulations 2007.*
- *A licence is required under the Dangerous Goods (Explosives) Regulations 2011.*
- *A licence is required under the Dangerous Goods (HCDG) Regulations 2005 and the use is not associated with agriculture.*

There are no referral mechanisms for use and development of land near a MHF. WorkSafe Victoria has published a guidance note *Land use planning near a major hazard facility* (2010). A number of *Land use planning advisory areas for major hazard facilities* maps have been prepared associated with the guidance note.

The guidance note is not an Incorporated Document in Clause 81 of the VPPs, nor is it referenced anywhere in the SPPF. However, as mentioned earlier there is reference under some local planning policy to both WorkSafe Victoria, the guidance notes and the advisory maps.

2.3 Ministerial Directions and Practice Notes

(i) Ministerial Directions

Ministerial Direction No. 14 – Port Environs

This direction ensures that any planning scheme amendment in the environs of the Ports of Melbourne, Hastings, Geelong and Portland has regard to protecting their operations and development from the encroachment or intensification of sensitive uses.

(ii) Planning Practice Notes

Planning Practice Note PPN3 – Applying the Special Use Zone

This practice note is relevant when the SUZ has been used for MHF. The purpose of this practice note is to provide guidance about the appropriate use of the SUZ in planning schemes.

The SUZ can be considered when either:

- *An appropriate combination of the other available zones, overlays and local policies cannot give effect to the desired objectives or requirements*
- *The site adjoins more than one zone and the strategic intent of the site, if it was to be redeveloped, is not known and it is therefore not possible to determine which zone is appropriate.*

Application of the SUZ is not appropriate when an alternative zone, with appropriate support from local policies and overlays, can achieve a similar outcome.

¹³ Note 2 relates to where an assessment of risk to the safety of people located off the land may be required.

2.4 Plan Melbourne

Plan Melbourne is the metropolitan planning strategy for Melbourne. It establishes a series of objectives and directions. It identifies the protection of State significant industrial precincts as part of the Metropolitan Melbourne Structure Plan¹⁴.

Direction 3.5.3 relates to managing the impacts of freight movements on urban amenity, however, it recognises the benefit of planning to protect buffers which can provide certainty to industry whilst maintaining urban amenity.

Direction 5.4 seeks to improve noise and air quality to improve human and environmental health. The Direction includes a medium action for DELWP to review and update relevant guidelines to inform the location and separation distances for sensitive uses, and provide planning, building and urban design advice about how air emissions and noise exposure can be reduced.

At the time of writing, Plan Melbourne is undergoing a 'refresh' process and a discussion paper has been released for public comment. The discussion paper reflects the Governments renewed focus on transport, climate change and affordable housing among other issues. The general directions in relation to MHF are not significantly affected.

2.5 Regional Growth Plans

Regional growth plans provide, where relevant (such as the Great South Coast Regional Growth Plan), recognition of the need to protect industrial activity from sensitive land uses (strategy under Clause 11.09-9) and to ensure industrial activity is separated from sensitive uses (page 23 under *Land Use Policies, Strategies and Actions* in the Great South Coast Regional Growth Plan).

¹⁴ Victorian State Government, Plan Melbourne, May 2014, Map 8 and Table 1.

3 Safety and environment

In addition to the land use planning system, there is a comprehensive regulatory system for MHF that aims to protect the community and the environment. The key pieces of legislation and other instruments are outlined below.

3.1 Occupational Health and Safety Regulations 2007

The main objective of the Occupational Health and Safety Regulations (OHSR)¹⁵ is:

...to further the objects of the Occupational Health and Safety Act 2004.

They aim to do this by among other things:

...providing for the safe operation of major hazard facilities and mines in order to reduce the likelihood of a serious incident occurring; and

...providing for the protection of property from damage from the use of dangerous goods at major hazard facilities.

The regulations as well as WorkSafe's guidance note: *Determination process for a major hazard facility*¹⁶ provide the methodology to determine if a facility is a MHF. They are identified as industrial facilities where significant quantities of certain types of dangerous goods may be present. Examples of MHF include oil refineries, chemical manufacturing sites, gas processing plants, LPG facilities, water treatment facilities, timber processing facilities and transport depots.

In determining whether a facility is a MHF, WorkSafe takes into consideration the proximity of the facility to other major hazard facilities, sensitive land uses, other land uses and the record of the operator. The current list of MHF is contained on the WorkSafe website.¹⁷

In order to understand the risks the regulations require the operator of a MHF to do a Safety Assessment of the facility and eliminate or reduce as far as practicable the extent of property damage if a major incident should occur. The Safety Assessment forms an integral part of the Safety Case which demonstrates to WorkSafe that the operator is operating the facility safely and that WorkSafe is able to grant a licence to operate the MHF.

The operator must also prepare an emergency management plan that must identify infrastructure such as utilities, roads, rail, airports and other infrastructure likely to be affected by a major incident as well consider the potential on-site and off-site consequences if a major incident occurs. The emergency management plan must be prepared in conjunction with emergency services and, in relation to the off-site consequences of a major incident occurring, the local municipal councils. The local community and the local council

¹⁵ Excludes pipelines except for including material contained in interconnecting pipelines when determining the materials at the facility.

¹⁶ WorkSafe: Determination process for a major hazard facility: Information for operators of dangerous goods sites on how WorkSafe determines if the site is a major hazard facility, March 2011.

¹⁷ <https://www.worksafe.vic.gov.au/forms-and-publications/forms-and-publications/approved-major-hazard-facilities>.

must be provided with information about the facility including major incident notification and the type of action the local community should take.

3.2 Dangerous Goods Act 1985

The objectives the *Dangerous Goods Act 1985* (DGA) include:

- *to promote the safety of persons and property in relation to the manufacture, storage, transport, transfer, sale and use of dangerous goods and the import of explosives into Victoria*
- *to ensure that adequate precautions are taken against certain fires, explosions, leakages and spillages of dangerous goods and that when they occur they are reported to the emergency services and the inspectors without delay*
- *to ensure that information relating to dangerous goods is provided by occupiers and owners of premises to the relevant authorities*
- *to allocate responsibilities to occupiers and owners of premises to ensure that the health and safety of workers and the general public is protected*
- *to provide for licensing of persons required by the regulations to hold a licence in relation to dangerous goods*
-
-

Implementation of the DGA is supported by the *Dangerous Good (Storage and Handling Regulations) 2012* and the *Code of Practice for the Storage and Handling of Dangerous Goods 2013*.

3.3 Environment Protection Act 1970

The *Environment Protection Act 1970* (EP Act) establishes the legislative framework required to protect the environment. It also establishes the powers, duties and functions of the EPA to enable it to administer the EP Act through such instruments as regulations, works approvals, licences and pollution abatement notices as well recommending SEPPs and industrial waste management policies (IWMPs) to the Governor in Council. The EP Act contains a set of ten principles that guide environment protection in Victoria including the precautionary principle and intergenerational equity.

While the EP Act and EPA are about protecting the environment, the ways this is done has relevance to MHF as EPA licenses many of the MHF to ensure that there are no adverse effects on the environment. EPA also monitors industry in general to ensure compliance with the EP Act. There are specific penalties through the EP Act for breaches of licenses and through EPA's compliance and enforcement powers.

3.4 Environment Protection (Scheduled Premises and Exemptions) Regulations 2007

The Schedule Premises and Exemption Regulations (SPER) set out the type of premises that are required to obtain an EPA works approval and/or licence, and/or provide a financial assurance.

Premises can be scheduled due to air, water, noise and waste emissions above a certain threshold. The types of premises that are scheduled that are also MHF include premises where activities such as timber preservation; manufacturing of chemicals of 2,000 tonnes or more of chemical products annually; manufacturing of herbicides, insecticides or pesticides; oil or gas refineries; pulp and paper mills; treatment of large quantities of potable water; and large bulk storage facilities where hazardous substances are stored.

The SPER sunset in June 2017 and are currently being reviewed.

(i) EPA licences

An EPA licence is required for all scheduled premises, unless the premise is exempt under the SPER.

Licences contain standard conditions that aim to control the operations of the premises so that there is no adverse effect on the environment. These conditions address areas such as waste acceptance and treatment, air and water discharges, and noise and odour. The EP Act specifies penalties for breach of licence conditions and for operating a site without a licence.

(ii) EPA works approvals

An organisation that proposes to install plant or equipment that discharges waste to the environment; or proposes to make changes to its operations that will increase or change an existing waste discharge to the environment; or the way its waste is treated or stored is required to submit a works approval application to EPA prior to any works.

EPA can grant works approval exemptions for some activities that are eligible for an exemption under the SPER.

EPA assesses the works approval application before deciding if the works approval should be granted and whether any conditions are attached to grant the works approval. If the works approval is granted EPA inspects the completed works.

3.5 State Environment Protection Policies

EPA, under delegation provided by the EP Act, has prepared a number of SEPPs that aim to safeguard the environmental values and human activities from the effect of pollution and waste. Each SEPP, among other things, articulates the beneficial uses to be protected and the environmental quality objectives as well as the attainment and management programs that will ensure the necessary environmental quality is maintained and improved. Works approvals, licences and other regulatory tools are required to be consistent with SEPPs.

Some SEPPs are called up in the SPPF in planning schemes as discussed in Chapter 2.2.

(i) State Environment Protection Policy (Air Quality Management)

The *State Environment Protection Policy (Air Quality Management) 2001* (SEPP (AQM)) establishes the framework for managing emissions into the air environment in Victoria from all sources of air pollutants, so that the air quality objectives outlined in the SEPP are met.

The SEPP (AQM) includes in its Schedules emissions design criteria based on toxicity, odour, bioaccumulation and which industry is required to meet for class 1, 2, 3 and unclassified air pollutants. These classes are described in the SEPP (AQM).

EPA uses statutory and non-statutory instruments and measures to implement the SEPP including:

- licences, works approvals and notices issued under the Act
- enforcement programs, including the investigation of complaints
- protocols and guidelines for environmental management
- risk assessment principles, practices and protocols
- environmental planning measures, including protocols for separation distances and land use planning
- emergency abatement plans.

(ii) Other relevant State Environment Protection Policies

State Environment Protection Policy (Prevention and Management of Contamination of Land)

Due to their nature, and for many their longevity, MHF could have contaminated land or contamination could occur during a major incident which would require clean up to the level commensurate with protecting the associated land use type (as specified in the SEPP). The SEPP requires that, in accordance with the EP Act planning and responsible authorities are required to ensure that actions are consistent with this SEPP.

Where there is potentially contaminated land an Environmental Audit Overlay (EAO) is applied to the land which then requires that a formal environmental audit be carried out before buildings and works are constructed for a 'sensitive use'. The EP Act sets out the process for appointing environmental auditors and managing environmental audits.

State Environment Protection Policy (Groundwaters of Victoria)

Similarly industry including MHF could contaminate groundwater. The SEPP (Groundwaters of Victoria) aims to maintain and, where necessary, improve groundwater quality to a standard that protects existing and potential beneficial uses of groundwaters. It requires that planning schemes and planning permits are consistent with the provisions of this policy.

State Environment Protection Policy (Waters of Victoria)

This SEPP aims to protect and rehabilitate Victoria's surface water environments. For MHF near a water body the SEPP (Waters of Victoria) has relevance particularly during a major incident when there is the potential for contaminated water used to control the incident entering a waterway. This SEPP identifies the important role that strategic and statutory planning tools including planning schemes and municipal strategic statements have in protecting waterways.

State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No N-1

The SEPP (Control of Noise from Commerce, Industry and Trade) aims to protect people from commercial, industrial or trade noise that may affect the beneficial uses such as normal

domestic and recreational activities including, in particular, sleep in the night in the Metropolitan Region.

Waste Management Policy (National Pollutant Inventory) 2012

The National Pollutant Inventory (NPI) is a public database that provides the community, industry and government with information on 93 substances being emitted to the air, land and water, and transported in waste NPI. It is updated annually and contains emissions data for large facilities that emit and estimated emissions from diffuse sources such as motor vehicles. The NPI is searchable and provides details about each substance including health and environmental effects from exposure.

The NPI is incorporated into Victorian legislation as the Waste Management Policy (National Pollutant Inventory) 2012. EPA implements the NPI program in Victoria.

Most if not all of the MHF would be on the database.

3.6 Other EPA publications and guidelines

(i) Recommended separation distances for industrial residual air emissions

EPA's Guideline *Recommended separation distances for industrial residual air emissions*¹⁸ (IRAE Guidelines) provides guidance on separation distances between industrial operations and sensitive uses.

Residual air emissions are those that occur through unintended industry generated episodic or intermittent odour and dust emissions when for example there is an accident or equipment failure or abnormal weather conditions. When one of these events occur the separation distances should be adequate for the emissions to dissipate so there are no adverse impacts on sensitive uses. As discussed in Chapter 2 the IRAE Guidelines are a reference document to Clause 13.04-2 of the SPPF and are EPA's key guidance on the separation of industry and sensitive uses through land use planning.

Importantly the IRAE Guidelines have the objectives of:

- Protecting health and amenity and aesthetic enjoyment
- Protecting industry from encroachment
- Preventing underutilisation of land near industry.

The separation distances given in this guideline can be varied under certain circumstances if for example the industry uses exceptional high standard of emission controls, the size of the plant is different to others in the same industry or an environmental risk assessment demonstrates that a varied separation distance is justified.

Key aims of the guideline are to:

- *Provide clear direction on which land uses require separation*
- *Inform and support strategic land use planning decisions and consideration of planning permit applications*
- *Prevent new sensitive land uses from impacting on existing industrial; land uses*

¹⁸ EPA publication 1518

- *Prevent new or expanded industrial uses from impacting on existing sensitive uses*
- *Identify compatible land uses that can be established within a separation distance area.*

(ii) Protocol for Environmental Management: Minimum control requirements for stationary sources

The *Protocol for Environmental Management: Minimum control requirements for stationary sources*¹⁹ (PEM) is an incorporated document in the SEPP (AQM).

It provides a protocol for emission management from stationary sources outlining minimum control requirements and emission limits for thirteen types of industries. MHF such as wood pulp mills, refineries and chemical plants manufacturing either ethylene dichloride, vinyl chloride monomer, or polyvinyl chloride are included in the industries. While the minimum control requirements are aimed at controlling emissions and some are directed at plant maintenance, they do not specifically consider land use planning. However stringent plant maintenance reduces the risk of an incident at a MHF occurring. For example at refineries a comprehensive regular leak detection program of valves, seals pumps and the like is required. Similarly at chemical plants manufacturing either ethylene dichloride, vinyl chloride monomer, or polyvinyl chloride a comprehensive leak detection and maintenance program is required for pressure relief devices as well as an air monitoring program which would enable early detection of a fault.

(iii) Guideline: Noise from Industry in Rural Victoria

This guideline²⁰ sets out recommended maximum noise levels for industry in regional Victoria to assist in managing the impacts of noise on the community. The recommended levels provide different degrees of amenity protection in different land-use zones.

¹⁹ EPA Publication 829, 2002.

²⁰ EPA Publication 1411, October 2011.

4 VCAT decisions and Panel reports

The Victorian Civil and Administrative Tribunal (VCAT) and Planning Panels have considered a number of cases adjacent to or near MHF. Some of the key cases are summarised below.

4.1 VCAT Decisions

(i) ***Sandbar Properties Pty Ltd v Maribyrnong CC (No 2) [2010] VCAT 678 (16 April 2010)***

This was an application in respect of a permit application for the construction of 66 dwellings of two and three-storey at 200 Stephen Street, Yarraville. The central issue was whether the land was suited to medium density development given its location near Mobil's Yarraville Terminal, a bulk fuel storage and distribution facility. The Tribunal concluded that there should be a buffer between new or more intensive residential development and a MHF such as the Yarraville Terminal. It determined that no permit should be granted.

The Tribunal stated that the planning scheme provides no guidance as to the appropriate planning approach for risks associated with MHF. However it referred to planning approaches adopted in the United Kingdom and some preliminary work being done by the Ports and Environs Advisory Committee with WorkSafe in Victoria. It considered that these examples are useful illustrations of how risks imposed by one land use on another more sensitive land use should be managed in a planning context.

The Tribunal stated at paragraph 55:

There are dwellings which exist as a consequence of the history of development of the area which would be subject to risks greater than or equal to the proposed dwellings. However, the proposed development will more than double the dwelling density in that part of the precinct which, like the subject land, is east of Stephen Street and within 250 metres of the Yarraville Terminal.

(ii) ***Shell Company of Australia v Hobsons Bay CC & Ors (includes Summary) (Red Dot) [2012] VCAT 1184 (8 August 2012)***

An application was made by Shell to review the Responsible Authority's decision of 26 July 2011 to grant a permit allowing for the construction of three double storey dwellings opposite Shell's fuel storage facility at Newport. Shell considered that there should be no increase in the number of dwellings in such close proximity to a MHF.

The Tribunal determined that due to its extremely close proximity to a MHF, an increase of two dwellings on the land in a residential zone was unacceptable.

Two issues were considered by the Tribunal: Should the EPA's buffer distance requirements be considered? and Should a permit be issued to develop additional dwellings on a site in close proximity to a MHF? The Tribunal accepted the concept of the tyranny of small decisions referred to in *Southern Capital Corporation v Port Phillip CC [1999] VCAT 130*. The Tribunal stated at paragraphs 35 and 36:

...to allow for an increase in the density of development on the subject land...would introduce a very small increased marginal societal risk...based on the tyranny of small decisions it would, in the end, set a precedent for similar developments in the area and it would be irresponsible to approve the development, albeit with its resulting very small increase in population density.

The Tribunal accepted, as did the Tribunal in *Sandbar*, that ‘risk is an aspect of amenity’ and therefore careful consideration should be given to increasing density in close proximity to a MHF, even if the proposal is supported by way of the zoning provisions.

(iii) *NP Development Pty Ltd v Hobsons Bay CC & Ors (Including Summary) (Red Dot) [2014] VCAT 861 (25 July 2014)*

Two applications were brought before the Tribunal by NP Development Pty Ltd. The applications related to Stage 2 (Lots 10, 11 and 12) of an area marked for redevelopment known as the former Port Phillip Woollen Mills (PPWM) land. One related to Hobsons Bay City Council’s refusal to grant a permit for the demolition of the Nugget Factory (Lot 12). The second application related to Hobsons Bay City Council’s failure to grant a permit within the required time for demolition of all buildings including the Nugget Factory, the construction of an apartment building containing 128 dwellings and the construction of 41 townhouses in four separate blocks.

One of the issues raised was the potential risk and safety to future residents due to the close proximity to Mobil’s Point Gellibrand Tank Farm (GTF).

The Tribunal found the proposed development to be supported by the strategic directions contained within the policies and provisions of the Hobsons Bay Planning Scheme. The former PPWM land had been identified for over five years for significant residential development.

Both Mobil and the respondent objectors raised concerns in relation to emergency access to the industrial sites in the event of an incident, particularly at the GTF. The concern centred around the impact any additional number of residents from the subject land may have on access to the area by emergency services or egress from the area by residents in the event of an emergency.

The Tribunal accepted that with the inclusion of appropriate permit conditions in relation to both construction techniques and future monitoring requirements, the amenity of the future occupants of the residential development will not be unduly impacted by the existing and potential industrial developments.

In relation to the issue of risk and safety, the Tribunal considered that the Advisory Area²¹ is relatively large and they could envisage a range of commercial uses for the land. All of these uses have the potential to attract more people to the Advisory Area than the townhouses. The Tribunal was of the view that the residential use associated with the townhouses results in a relatively low number of persons within the Advisory Area. This, together with the

²¹ For hazard from the tank farm; as defined by WorkSafe.

design of the townhouses to withstand overpressures of 6kPa, resulted in an acceptable outcome.

Whilst Mobil sought to limit the number of residents in the apartment building due to it facing the GTF, the Tribunal noted that the apartment building falls outside the nominated Planning Advisory Area. The Tribunal did not consider that a reduction in the number of building levels is called for because the apartment building will face towards the GTF.

(iv) *VJA Consultants Pty Ltd v Hobsons Bay CC & Ors [2012] VCAT 1846 30 November 2012*

Hobsons Bay Council refused to grant a planning permit to VJA Consultants Pty Ltd to construct eight dwellings at 462 Melbourne Road Newport to replace two dwellings. VJA sought a review of the decision. The land lies in the Outer Advisory Planning Area and is 214m and 268m southwest of the nearest bund wall of two tanks located on the Shell Newport Fuel Storage Terminal.

The Tribunal recognised that the level of harm within the Outer Planning Advisory Area is not as great as that for the Inner Planning Advisory Area however it also said that there was a residual risk of adverse impact / hazard to residents in the outer area and that in consideration of planning policy the residual risk should be minimised. By introducing an additional six dwellings on the site the Tribunal considered that it would be unacceptable to allow such an incremental increase in the exposure of people to such risk of harm and affirmed the Responsible Authority's decision not to grant a permit.

(v) *JB & DP Milgate Property Pty Ltd v Hobsons Bay CC [2015] VCAT 1167 (3 August 2015)*

Hobsons Bay City Council granted a permit in November 2010 for 3 double storey dwellings at 57 Ross Road Altona North. The land is in the Inner Planning Advisory Area²². Two applications were made to extend the permit and were granted, the outcome of which was a requirement that the development commence by 22 November 2014 and be completed by 22 November 2016. In November 2014 the new owners of the property, JB & DP Milgate Property Pty Ltd, applied for a further extension.

The Council referred to the application to the operator of the Altona Refinery, who objected to the extension. The Council refused the extension request in January 2015. In its refusal Council referred to its internal adopted Guidelines, *Interim Management of Land Use Planning around Major Hazard Facilities Guidelines*, as well as the objection from the refinery operator.

The Tribunal commented that little had changed in State and local planning policy, the zoning of the land, or other relevant matters since the first permit was granted. What had apparently changed was the weight that the Council has now placed on the matters of risk posed by the refinery and its reluctance to now support residential development near such a facility. The Tribunal considered that had a fresh permit been applied for, there would have

²² As defined by WorkSafe.

been a high probability for refusal. The Tribunal affirmed Council's decision and the permit extension was refused.

4.2 Panel Reports

(i) Maribyrnong C82 (PSA) [2011] PPV 10 (31 January 2011)

The Amendment updated the City of Maribyrnong's planning visions and policies and revised the Local Planning Policy Framework (both the Municipal Strategic Statement (MSS) and the Local Policies). The Amendment also proposed to introduce a new incorporated document, Neighbourhood Character Guidelines.

Part of Maribyrnong, the Yarraville Industrial Precinct is located to the west of Maribyrnong River. The Port of Melbourne is located on the opposite side of the river with Swanson Dock West and Coode Island providing the main interface with the Port.

Land in the Yarraville Industrial Precinct is within the Outer Planning Advisory Area identified in the WorkSafe Guidance Note, *Land use planning near a major hazard facility*. The Port of Melbourne Corporation were concerned about the intense development of land near their facilities and the Coode Island MHF.

The Panel held that a precautionary approach is appropriate in this instance. The Panel commented at page 77:

It is evident that Council and the Port have different and conflicting visions for the area. The Port see this area as a buffer around the Port of Melbourne while Council see it as a commercial precinct which can take advantage of its location on the river, transport infrastructure, and its proximity to the Footscray CAD and the Melbourne CBD.

(ii) Port Phillip Woollen Mills (AC) [2011] PPV 53 (10 May 2011)

The PPWM Advisory Committee was tasked with reviewing the planning and urban design matters related to the proposed redevelopment of the former Port Phillip Woollen Mills, Nelson Place, Williamstown. This land is owned by Nelson Place Village Pty Ltd and was referred to as the 'NPV' land.²³

An issue for the Advisory Committee to consider was whether it was appropriate to develop the NPV site for higher density housing given its proximity to a MHF at the GTF.

The Advisory Committee acknowledged that there is no standard methodology or criteria for the provision of advice on land use planning near to MHF's. However, it relied on a number of other jurisdictions that define planning or buffer distances to inform its decisions on land use or development near hazardous industries.

In light of all of the evidence and submissions, the Committee did not think it prudent to locate the densest parts of this development in that part of the site that is contained within the WorkSafe-defined Outer Planning Advisory Area. The Committee preferred to err on the

²³ This Advisory Committee was a precursor to the NP Developments VCAT case mentioned earlier.

side of caution and to apply the more conservative ‘precautionary principle’ given the risks involved.

The Committee’s view was supported by the findings of the Maribyrnong Amendment C82 Panel (report of January 2011) who similarly adopted the ‘precautionary principle’ in setting out a long term strategic framework for land uses near an MHF. That Panel specifically recommended prohibition of residential use in the inner and outer advisory areas in accordance with the WorkSafe Guidance Note.

The Committee stated that it found it curious that WorkSafe is presently not a referral authority for applications within its inner or outer advisory areas. They stated at page 88:

Referral authority status is a serious role in the planning process and it is only conferred if the input from a nominated agency is central to the outcome of an application. Such status is common in flood prone areas and in bushfire prone areas. It seems to this Committee that there is a gap in the planning process if the agency that is responsible for something as serious as a potentially life threatening event is not required to be informed.

(iii) Brimbank C128 (PSA) [2013] PPV 152 (18 December 2013)

Brimbank Planning Scheme Amendment C128 proposed to rezone part of the land (72ha from a total site area of 150ha) from Industrial 2 Zone (IN2Z) to part Business 2 Zone (B2Z) and part Business 3 Zone (B3Z); and apply the Environmental Audit Overlay (EAO) to the land to be rezoned.

The subject site, located at Deer Park, had been a major industrial and employment area since 1885, primarily for the production of chemicals and explosives for the mining industry. Momentive Specialty Chemicals, classified as a registered MHF by WorkSafe, occupied the adjoining land to the west of the subject site under a lease from Orica with approximately 40 years left to run. Momentive was concerned that the Amendment could see incompatible land uses located on the eastern border of its Deer Park facility which jeopardise its long term future and prevent it from expanding in an easterly direction within its lease area.

One of the key issues in the Hearing was whether the MHF Outer Planning Advisory Area of 300m from the ‘Gate 3 industries’ towards the Amendment area (to the east) should be measured from the source of the hazard, or from the site boundary.

The Panel concluded that the hazard fundamentally must be considered as coming from the source, in this case the banded formaldehyde tank farm.

However, the issue then became more complex because Momentive considered that given the length of their lease, they should retain the opportunity to develop to their eastern boundary, and thus the 300m distance should be measured from there. Momentive did not come to the Hearing with any specific plans for future development of the site.

The Panel stated at page 28:

If there was a firm proposal for expansion of the MHF which relied on this area of the site being the vacant area between the current plant and the eastern boundary, then the Panel might take a different view. But on the current facts

this is not the case. The planning system does not operate as a static framework that gives absolute protection to possible future uses.

(iv) Hobsons Bay C96 (April 2015) (no citation as yet)

Hobsons Bay Planning Scheme Amendment C96 proposed to rezone the land at 222-258 Kororoit Creek Road from the Industrial 3 Zone (IN3Z) to the Residential Growth Zone (RGZ) to build an aged care facility. The closest land is owned by Mobil Refining Australia Pty Ltd (Mobil), which is a MHF. The Mobil Altona petroleum refinery is located west of the site along Kororoit Creek Road.

The issue was originally raised as to whether the residential rezoning and aged care facility should be countenanced on the Amendment site in relation to risks and hazards.

On the available information before the Panel, it was clear to the Panel that the Amendment site was likely to be outside WorkSafe's Inner and Outer Planning Advisory Areas. The Panel therefore concluded that risks and hazard from the refinery and related facilities were not an impediment to the Amendment and should not place an additional burden on Mobil from a risk or amenity perspective.

5 Initial consultation

On 28 October 2015, the Advisory Committee wrote to key stakeholders listed in Clause 14 of the Terms of Reference inviting them to provide initial comments on the matters raised in the Terms of Reference to assist with the preparation of the Discussion Paper. The stakeholders included WorkSafe, EPA Victoria, Port of Melbourne Corporation, groups representing residents and local communities in areas surrounding MHF, owners/operators of 40 registered MHF, relevant industry bodies, and relevant local Councils. Submissions closed on 13 November 2015 and a total of 24 submissions were received.

Those who were contacted and responses are listed in Appendix B.

Several submissions commented on the importance of having appropriate land use buffers between MHF and other forms of development. Esso (submission 14) noted that the buffer zones vary significantly, whilst Mornington Peninsula Shire Council (submission 2) stated that there is no common and appropriate planning tool in the VPPs for the mapping of MHF; consequently potential purchasers may be unaware of likely future risks or limitations on the future use and development of their land.

Toll (submission 1) stated that the present framework appears to consider the impact on neighbouring properties, but does not apply the same assessment process to an application for other types of development such as residential or community buildings. Toll suggested extending the existing overlay system to include a new Hazardous Industry Overlay, to define a safety buffer around MHF. If such an overlay was introduced, referring planning scheme applications to WorkSafe would not be required.

However, WorkSafe (submission 12) further commented that there may be insufficient technical data available at the planning permit stage to exactly determine an appropriate land use buffer.

Having more consistency in the planning scheme was raised as an issue. Viva Energy (submission 23) supported making it easier for Councils to deal with the significant number of development applications around the Newport Terminal and more recently around the Geelong Refinery. Mobil (submission 13) supported introducing legislation to support appropriate planning for areas that are close to MHF. The EPA (submission 20) made a number of suggestions for improvements and clarifications in relation to Clause 52.10. This included clarifying the referral authorities, threshold distances and trigger points for referral.

The City of Hobsons Bay (submission 17) also raised this issue and stated:

...to date, land use planning around MHFs in the municipality has taken place on a case by case basis...that approach is time and resource intensive ...it provides little certainty to Council...

Protection from future encroachment of new residential development was noted in a number of submissions. EPA stated *...there is a particular need for improvement to land use planning in areas that interface with existing industrial operations, whether or not they are approved major hazard facilities*. This issue is in fact identified as a strategic priority in EPA's 5 Year Plan (2011-2016).

Mobil noted that past planning policy decisions have led to homes being built too close to the Altona Refinery, within the area defined by WorkSafe as the site's Inner and Outer Advisory Areas. They stated that placing higher density development near MHF also increases the number of people at risk. Esso (submission 14) concurred with this, stating that *Increasing pressure from competing forms of land use has brought the community in closer proximity to these facilities*, and that new facilities such as the Long Island Port facility are likely to be located in proximity to Esso's facility.

Greater Dandenong Council (submission 6) expressed a similar sentiment, stating that when the Taylors Hill Landfill commenced it was in a non-urban rural setting, and the facility is now situated in industrially zoned land located less than 1 kilometre from residentially zoned land.

Melbourne Water (submission 5) stated that risk should be communicated consistently and concisely to the community, including developers, who may be located close to MHF.

Mobil further noted that impacts can include amenity issues such as noise and odour, particularly in areas undergoing urban renewal, such as Altona, Newport and Altona North. The Maribyrnong Truck Action Group (MTAG) (submission 21) commented on the potential impact on neighbourhoods that are not directly adjacent to MHF, such as the impact of trucks travelling to and from MHF.

A number of submissions, including from Greater Dandenong Council (submission 6), Hobsons Bay Council (submission 17), Save Williamstown (submission 9), Mobil (submission 13), MPA (submission 15), APA Group (submission 11), Energy Safe Victoria (submission 19), raised the issue of land use planning around high pressure gas pipelines.

VicTrack (submission 24) noted that a large network of pipelines interface with passenger and freight lines and as land is rezoned to accommodate residential developments, there have been instances of large scale developments being located next to operational railway lines.

DEDJTR Earth Resources Division (submission 10) commented that relevant agencies should be notified about planning permit applications to improve the effectiveness of public safety assessments.

MPA (submission 15) was interested in receiving guidance in relation to where the major hazard facilities could be potentially located in the future.

WorkSafe (submission 12) stated that there are sites that do not meet the criteria for a MHF under the OH&S legislation but still pose a significant hazard to public health and safety, and that consideration should be given to the inclusion of these significant sites in any planning regime. The EPA (submission 20) also commented that many of the principles for how land use planning can assist with managing the risks associated with MHF, could assist with managing the risks associated with other industrial uses.

The Port of Melbourne Corporation (submission 22) commented on the importance of protecting commercial trading ports from encroachment of sensitive and incompatible land uses, known as 'reverse buffer'. The lack of reverse buffers in planning policy was also noted by Hobsons Bay Council.

6 Key issues

Having considered the information in the preceding chapters, the Committee in this chapter discusses a number of key issues and questions for further discussion and on which it is seeking feedback. This list of issues is not meant to be definitive and those contributing should feel free to provide advice and feedback on other matters they see as important.

6.1 Hazards, risk and consequence

There are a range of industrial land uses where large quantities of hazardous chemicals and dangerous goods and materials are stored, handled or processed either in manufacturing processes or as products from such processes. These land uses are often referred to as MHF. Examples include:

- Oil refineries.
- Chemical manufacturing sites.
- Gas processing plants.
- LPG facilities.
- Some warehousing and transport depots
- Water treatment plants.

There may also be land uses that are not defined as MHF but which may also be potentially hazardous to surrounding land use and development due to the nature of their operations.

Whether classified as an MHF or not the primary matter for consideration appears to relate to the nature of materials or goods stored or processed at the facility.

The risks arising from MHF and other industrial uses may be associated with high consequence events (e.g. an explosion or release of toxic chemicals which may be a risk to human life) or be of an event that disturbs or affects amenity. This latter issue is addressed in the next section.

MHF and other land uses that are a potential hazard to human health and safety occur at both existing facilities such as petrochemical plants or bulk good storage facilities or at new proposed facilities. They also present as proposals in areas that are planned to be set aside for such purposes in urban growth/greenfield areas or in redevelopment/urban renewal areas.

The critical issue for the Committee is how the land use planning system currently operates, and should operate in future, to ensure the net community benefit and sustainable development objectives can be met to both protect human health and safety whilst enabling the important economic contribution that MHF make to society.

Thought starters:

1. Does the planning system effectively address existing or greenfield MHF or other hazardous industry that poses a risk to the safety of surrounding areas?
2. How should planning address areas surrounding existing or proposed MHF or other hazardous industry that poses a risk to the safety of surrounding areas?

3. Should there be greater consultation when a new MHF is proposed or changes made that would require changes to its safety assessment? Who should be involved in that consultation?

(i) Definition of a Major Hazard Facility

A MHF is defined by the OHSR as discussed in Chapter 3. There is no land use definition of a MHF under planning schemes, for example in Clause 74.

MHF as defined are managed under the OHSR to reflect their level of hazard and risk to the safety of surrounding areas. Apart from references in State planning policy, in some local planning policies and in zones such as the IN1Z and IN2Z and in some SUZ Schedules, there is no specific policy, zone, overlay or other particular provision that addresses MHF or the safety risk to surrounding areas.

Thought starter:

4. Should a definition for MHF be included in planning schemes, and if so, what might a definition include?

(ii) Risk assessment and modelled hazard boundaries

MHF where they are classified as such by WorkSafe, are required to be licensed and have a Safety Case which assesses the risk, likelihood and consequence of an event on safety of both the site of the facility and its surrounds.

Undertaking a Safety Case is a significant task. They are useful because they can identify potential risk to areas around a MHF. They also enable WorkSafe to provide advice in relation to activity within those areas of land that may be affected by such risk from a MHF.

The extent of risk areas around a MHF can be portrayed as:

- An Inner Planning Advisory Area where the individual risk of fatality from potential foreseeable incidents is greater than or equal to 1×10^{-7} per year (one chance in 10 million years).
- An Outer Planning Advisory Area where the consequence of a credible incident is not likely to cause a fatality but persons present may suffer some adverse effects or have difficulty responding to an emergency that may result in injury or harm.

These Planning Advisory Areas provide guidance in identifying areas around a MHF where risk to the safety of land uses that are considered sensitive to those risks need consideration and where similar care should be taken for any strategic planning for future land use and development. WorkSafe have released mapped risk areas on the above basis for a number of sites including Coode Island and the Shell Terminal Station in Newport.

The delineation of separation distances/buffer areas may vary between different types of industrial activity. Difficulty occurs because of this variation and the planning system's reliance upon definitive mapping of zone and overlay boundaries. Zone boundaries tend to follow definable and defensible boundaries whilst overlays enjoy greater flexibility in terms of crossing through properties they remain reliant upon clear modelled and mapped outcomes.

Separation distances/buffer areas can be determined using site specific assessments or a more standardised approach such as using nominated distances from a potential source of risk. For example, Hobsons Bay City Council use guidelines titled *Interim Management of Land Use Planning Around Major Hazard Facilities* (October 2014). The guidelines generally nominate an Inner Planning Advisory Area of 185 metres from a tank bund and 300 metres from processing units. For the Outer Planning Advisory Area the guidelines refer to a general distance of 300 metres from a tank bund and 500 metres from processing units.

The WorkSafe information sheet titled *Land use planning near a major hazard facility* does not mention distances but outlines the following considerations in providing advice on proposed land use or developments within any mapped Inner and Outer Planning Advisory Areas:

- *The numbers, occupancy and vulnerability of persons likely to be present at the proposed development.*
- *The ability of those persons present to be organised and to safely respond to an emergency at the nearby MHF.*
- *Potential societal risk that may arise due to the overall impact on developments and people present on land surrounding the MHF.*

The planning system could benefit from having a simple and transparent mechanism to identify risk areas for MHF and other hazardous industries to be clearly identified and articulated.

The concept of risk is present in planning schemes through State planning policy dealing with Bushfire (Clause 13.05). Bushfire policy includes the overarching strategies to prioritise the protection of human life over other policy considerations in planning and decision-making in areas at risk from bushfire and to apply, where appropriate, the precautionary principle to planning and decision-making when assessing the risk to life, property and community infrastructure from bushfire.

These policies and strategies that prioritise the protection of life and application of the precautionary principle may have relevance to the risk to sensitive land uses around a MHF.

Thought starters:

5. Should MHF emergency plans also be required to consider the affect a major incident would have on property within the land use planning areas and provide this in information given to the local community?
6. Should the WorkSafe methodology for Inner and Outer Planning Advisory Areas continue to be the basis for identifying risk areas around MHF and be used for the land use planning system?
7. Should risk areas around MHF, through Inner and Outer Planning Advisory Areas, be identified in planning schemes?
8. Are there other more appropriate mechanisms other than the planning system that could be used to identify risk areas around a MHF that would alert landowners, tenants, permit applicants, facility operators and prospective purchasers and others about a MHF and the risk potential?

(iii) Reflection in the planning system

Environmental and safety requirements for MHF are regulated by the EPA and WorkSafe. The planning system does not provide this role however, it can ensure through both strategic and statutory planning that conflicting land uses and development do not occur in areas where environmental risk may occur.

Existing planning scheme tools do not provide a single mechanism for appropriately managing both use and development of land within separation distances/buffer areas. Most zones that are applied around and outside the boundaries of a MHF (e.g. one of the residential zones, commercial or mixed use zones) are designed to promote their respective types of land use and forms of development. Accordingly, there is no zone that includes specific provisions that requires an applicant or a decision maker to consider the effects of nearby land use or development on safety.

Extending an identified risk area over land outside the property boundary of a MHF does not necessarily quarantine that land from having a viable, economic use. There are non-sensitive uses which might be compatible with potential environmental risk.

This is perhaps made clear when considering what types of land use and development within the Inner and Outer Planning Advisory Areas WorkSafe advises against in its information sheet:

- *Land use or developments within the inner area, apart from low density industrial uses such as non-retail warehousing or other low employee density business or industrial use. This minimises the numbers of people that might be affected by a low frequency-high consequence incident and maximises the likelihood of people safely responding to an emergency.*
- *Land use or developments within the outer area for residential, business or other use where people likely to be present are not able to safely respond to a potential emergency situation or the proposal may result in unacceptable societal risk e.g. a large number of people present.*
- *Planning scheme amendments that may result in unacceptable societal risk because of the cumulative effects to all developments and persons that may be present on land surrounding an MHF.*

Thought starter:

9. Should modelled risk areas around MHF be translated into planning schemes, and if so, how could this best be achieved?

Policy

Planning policy at a State level does reflect on land use conflict. However there is no specific policy for MHF. The draft Planning Policy Framework (PPF) prepared in 2014 did propose a new policy (Clause 5.08) for *Hazardous Facilities* where it sought to limit sensitive uses close to hazardous facilities to reduce any adverse outcomes should an accident occur.

Local planning policy can be drafted to manage use of land and land use conflict between sensitive uses and hazardous facilities. However, local policy only provides guidance and cannot be used to prohibit inappropriate sensitive uses.

Thought starters:

10. Is the treatment of MHF in State policy adequate/appropriate?
11. Should policy more clearly prioritise the protection of human life in areas around MHF similar to that provided under Bushfire policy?
12. Could local planning policy play a greater role in managing conflicting land uses and sensitive land use near MHF and provide strategic guidance on how such areas are developed?

Zones

As mentioned above, zones applied to areas outside of MHF do not provide for hazards and risk to be considered. The exception could be those zones that allow Schedules to be developed that are tailored to particular circumstances or locational matters such as the SUZ or Comprehensive Development Zone (CDZ). Alternatively a new zone with tailored schedule could be developed.

In triggering a permit, an application for a sensitive use or development would be required to demonstrate that it includes appropriate design measures to manage external effects from vibration, light spill and glare, noise, airborne emissions and provide for safety and emergency evacuation to minimise potential amenity conflicts and threat to human life.

Thought starters:

13. Should a specific zone be considered and applied to all MHF such as the SUZ or a new zone?
14. Could or should SUZ or other zone boundaries extend off-site from MHF and Schedules used to allow certain use and development to occur?
15. Could any new or modified zone include purposes, permit requirements, decision guidelines that identify and manage sensitive uses?
16. Should zones prohibit intensification of use or should they maintain a discretionary permit process?

Overlays

Overlays are limited primarily to triggering the need for permits for development and not use. The Airport Environs Overlay (AEO) is an exception where it can manage both land use and development in relation to noise effects.

The ESO has been used to provide a degree of management of development around some MHF. It has been given some recognition for this role under DELWP's guidelines for using Victoria's planning system.

A new purpose built overlay could also be developed. There is potential for a new overlay that could identify and manage separation distances/buffer areas and:

- Define the boundaries of separation distances/buffer areas for risks around Major Hazard Facilities
- Control both the use and development of land within the identified separation distances/buffer risk area

- Allow for multiple Schedules to the overlay to provide for different levels of control to effectively manage varying levels of risk. Schedules may be restrictive with prohibitions of certain sensitive land uses or development or be less restrictive with greater emphasis on performance based assessment including contextual circumstances, design and siting considerations.

Thought starters:

17. Could or should an existing or new overlay be used to identify risk and manage development on land surrounding a MHF?
18. Should both use and development of land around a MHF be managed in an overlay?
19. Could an overlay identify inner and outer hazards areas or be applied to identified areas (whether default or modelled)?

Particular provisions

Clause 52.10 – *Uses with Adverse Amenity Potential* also applies to ‘unacceptable risk’. The clause is discussed at length in the next section.

(iv) Notification of risk

A concern for MHF regarding the planning system is encroachment. The present planning framework is effective at considering the impact on neighbouring properties as part of the assessment of any planning application for a new or modified MHF but does not appear to apply as rigorous an assessment process to an application for use or development, including residential or community buildings in the vicinity of an existing MHF.

A planning scheme amendment to a more sensitive use (such as residential) will usually trigger notice provisions which may involve a more transparent consideration of risk issues, but if the land is already zoned then development may occur as of right.

The result is that approvals may be granted that allow a greater population or population density close to a MHF. An issue is how can future residents, whether prospective purchasers, tenants or developers, be made more aware of the potential for risk?

If one of the planning tools mentioned above was used this notification would be provided through a planning certificate or a section 32 statement.²⁴

Thought starter:

20. Is notification of the risk status of land in proximity to a MHF important and how might it be achieved?

(v) Referral authority requirements

The EPA and WorkSafe have the opportunity as referral authorities to be involved in planning applications associated with new or existing MHF. However, they are not referral authorities for proposals located outside of these types of facilities.

²⁴ Under the *Sale of Land Act 1962*.

Referral authority status under Section 55 of the *Planning and Environment Act 1987* can be provided under Clause 66.04 for referral of permit applications under local planning provisions. An example is ESO3 under the Greater Dandenong Planning Scheme where Melbourne Water is included as a Section 55 referral authority under Schedule 3 to the ESO in relation to the Eastern Treatment Plant and listed in the Schedule to Clause 66.04 as a determining referral authority.

Thought starters:

21. Would it be appropriate or beneficial to include key agencies such as the EPA and WorkSafe as referral authorities for permit applications lodged with identified risk areas around MHF?
22. Would the use of a zone or overlay provide the mechanism for engaging the EPA and/or WorkSafe as a referral authority for areas of risk around Major Hazard Facilities?

6.2 Adverse amenity

Hazards leading to risk and significant consequences from MHF have been discussed above. The Committee's Terms of Reference also require consideration of buffers for adverse amenity for other industrial uses.

A buffer or separation distance can achieve both risk and amenity objectives, although a buffer to protect the amenity of sensitive uses is often considerably greater. Some of the key issues for planning controls in relation to risk as discussed can also be considered in relation to amenity protection.

(i) Buffers/separation distances

The two primary tools for amenity buffers are Clause 52.10 in the Victoria Planning Provisions (VPP)²⁵ and in the EPA *Recommended Separation Distances for Industrial Residual Air Emissions 2013* guidelines (IRAE Guidelines).²⁶

The distances prescribed in these tools are not mapped spatially in the planning system or the EPA regulatory system, except where being used in relation to a specific proposal.

In essence the tools have the following purposes.

Clause 52.10

The clause relates to threshold distances that are used to determine whether a permit is required for a use in some industrial and commercial zones. Its purpose includes reference to defining types of industries and warehouses that may cause offence or unacceptable risk to neighbourhoods if they are not appropriately designed and located. In some instances the clause acts as a 'prohibition'; for example some section 2 uses in the Commercial 1 Zone (C1Z) can only occur if they do not include a clause 52.10 use.

²⁵ Outlined in Section 2.2(v) of this report.

²⁶ Outlined in Section 3.6(i) of this report.

The clause does not provide for ‘reverse amenity’ protection of industry, although this is sometimes argued for particular proposals. Thus residential encroachment on industry is not addressed by the clause.

Clause 52.10 also applies from ‘land to land’; that is it applies from boundary of proposed industrial use to boundary of sensitive use. It does not, for example, apply from a pollution source to a particular sensitive use such as a house or school.

Any review of Clause 52.10 may benefit from considering the following matters:

- Clarifying what risks it addresses, such as noise, odour, dust, vibration and public/human safety
- The definition of ‘threshold distance’ and whether adequate protection is extended to sensitive uses in zones that are not listed in the Clause
- Clarifying its function, for instance that it does not set separation distances/buffer areas, but rather triggers referrals and further assessment
- Whether certain permit applications should be referred to the EPA and to WorkSafe
- Clarifying its interaction with EPA and WorkSafe guidance notes, guidelines and information sheets
- The potential for identifying/listing permit application requirements to avoid/reduce delays with requests for further information
- Links with relevant policies in the State and local planning policy frameworks.

Thought starters:

23. Should Clause 52.10 be reviewed to provide more than just an advisory role in determining the need for permits for industrial and warehousing uses?

24. If so, what should such a review seek?

The IRAE Guidelines

The EPA IRAE Guidelines were reviewed in 2013 and as discussed in Chapter 3 is a reference document in the SPPF. They explicitly address both separation between existing industry and proposed sensitive use and vice versa. The separation distances can be measured from activity to sensitive use boundary (urban context) or activity to sensitive use (rural context).

Thought starter:

25. Should the EPA IRAE Guidelines be better articulated in the VPP to accord greater weight to separation distances for industry or sensitive use expansion?

The size of buffers

Buffers between MHF and other industry and sensitive uses must be ‘fit for purpose’. That is they must reduce risk or amenity impacts to an ‘acceptable level’. This acceptable level should be evidence based with a focus on human and environmental health; and human amenity.

Excessive buffers may be an unnecessary economic impost, even though non-sensitive productive uses may be acceptable in the buffer. Insufficient buffers may lead to significant health and amenity impacts.

Ownership of buffers is often also problematic. Large industry, for example Mobil in Altona, may have significant land holdings that act as a buffer for their own MHF and industry. In other cases a buffer may be sought to be applied over adjoining land that is not in the same ownership with probable economic effects on those land owners. How might such a situation be resolved equitably?²⁷

The Committee considers there will always be a need to balance competing policy objectives in planning, for example industrial land protection against the provision of housing, and it would be difficult and probably undesirable to be too prescriptive in planning by providing a set of immutable buffer controls in all cases. However a risk based approach should always underlie decision making on this issue.

Thought starters:

26. Are the separation distances/buffer distances in Clause 52.10 and the IRAE Guidelines clearly justified and appropriate?
27. Might a clearer articulation in the planning system of principles around the need for buffers be useful?
28. Does the planning system currently allow and/or facilitate appropriate responses to the provision of buffers whilst ensuring the most efficient land use and land value capture outcomes around MHF and industry?

(ii) Reverse amenity and agent of change

As discussed above, the IRAE Guidelines specifically talk about the need to protect industry from encroachment of sensitive uses. This may restrict or 'force out' industry or alternatively may produce unacceptable impacts on nearby residents, whether risk or amenity.

The 'agent of change' principle has long been discussed in planning, whereby the 'new player', that is for example an encroaching sensitive use, is required to take design or other measures to ensure risks are managed to an acceptable level.

In 2014 this principle was given statutory weight in relation to live music, where the new particular provision at Clause 52.43 has one of its purposes:

To ensure that the primary responsibility for noise attenuation rests with the agent of change.

It is a principle that is used in the IRAE Guideline.

Such an approach could be encapsulated in the planning system in relation to MHF and other industry with significant offsite effects. There are a number of issues that would need to be explored including to what extent should the agent of change be allowed to 'design out' risk as opposed to an amendment or development being refused.

²⁷ The Committee is aware that the Western Australian Planning Commission has a State Industrial Buffer Policy which addresses such issues and will be looking at this and other State approaches in completing its task.

Alternatively, could the principle if implemented in planning in an industrial context encourage the continuation of industry that is inappropriately located or poorly performing in environmental terms.

Thought starter:

29. Could the 'agent of change' principle be introduced to planning schemes for industry to ensure that the onus on ensuring appropriate buffers rests with the encroaching sensitive use.

6.3 Sensitive uses

There are a range of tools and guidelines used in the consideration of 'sensitive uses' and MHF or other industrial uses.

Ministerial Direction No. 1 – *Potentially Contaminated Land* provides a definition of 'sensitive use' for the purposes of that Direction. It includes a residential use, a child care centre, a pre-school centre or a primary school.

Planning Advisory Note 56 for *Planning for Ports and their Environs* (October 2014) refers to sensitive uses and includes accommodation, childcare facilities, preschool centre or a primary school. The Advisory Note stresses the need for careful consideration of proposals that introduce new sensitive uses and/or intensify existing sensitive uses. Such uses may prejudice the land for future industrial requirements.

Both Clause 52.10 and the conditional requirements attached to as of right land uses under the IN1Z refer to land in a residential zone, Capital City Zone, Docklands Zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay (PAO) to be acquired for a hospital or an education centre.

Of interest, the IN1Z and IN2Z include as a decision guideline relating to the use of land (Clauses 33.01-2 and 33.02-2) that requires consideration of the effect that the industrial use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects, having regard to any comments or directions of the referral authorities. This allows scope for a responsible authority and a referral authority to provide advice with respect to what is considered a sensitive use.

Having regard to the above, it is clear that residential uses are sensitive to the of-site effects of industrial activity whether based on amenity or environmental/safety risk. It may be useful to develop and adopt a standard approach to the definition of sensitive uses.

Thought starter:

30. Should sensitive uses be formally defined in the planning scheme?

6.4 Navigating the system

Whilst there are clearly many potential tools and guidelines within the planning system that can be used when considering MHF, it appears to the Committee that there are differing views on how the system should work in an integrated manner.

It may be useful to develop a Practice Note or notes to clearly articulate how land use planning around MHF and industry more broadly should occur. This may be useful whether the existing suite of tools is used or additional planning tools are identified and developed.

Thought starter:

31. Would a Planning Practice Note(s) for interface planning between industry and sensitive uses be useful?

6.5 Pipelines

(i) Background

A number of submissions requested that pipelines that carry hazardous materials such as high pressure gas and petroleum products be included in our consideration of land use planning as these pipelines present a considerable risk to communities if they rupture. If a full bore rupture occurs then communities could be put at risk with potential fatalities and widespread destruction.

Pipelines are not specifically included in the Committee's TOR, but given the issue has been raised in many preliminary submissions, the Committee is proposing to consider it to some extent in its work.

Section 19 of the Act requires the planning authority to inform every Minister, public authority and municipal council that it believes may be materially affected by a planning scheme amendment and through s35(4) gain consent for the amendment. In the case of a pipeline this would include referral to the Minister for Energy and Resources however the Minister for Planning can also under s20 (4) decide, if considered appropriate, that referral to the Minister for Energy and Resources is not necessary.

There is little recognition of pipelines in the planning provisions. As discussed in Section 2.2 Clause 19.03-6 of the SPPF aims to ensure that gas, oil and other substances are delivered safely from ports, and calls for planning schemes to recognise and protect existing gas pipelines from residential encroachment and for new pipelines to have adequate buffers. However this clause is not effectively translated into policies, zones, overlays or particular provisions.

Clause 66.01 requires referral to the relevant gas supply authority when land proposed for subdivision crosses a gas transmission line or a gas transmission line easement. There is no similar referral provision for pipelines carrying other hazardous substances for example petroleum products.

Several instances were provided where pipelines and the need to protect them were not raised until late in the planning approval process and instances where encroachment is already occurring or potentially could occur also came to our attention.

One example where issues related to a pipeline were only raised late in the planning scheme amendment process was the Lara West Precinct Structure Plan (LWPSP), Greater Geelong Planning Scheme Amendment C246. The presence of a significant high pressure gas pipeline only emerged in the period after Council had already adopted the LWPSP in 2011 and attention to the pipeline only occurred just prior to the Panel Hearing. The late recognition

of the pipeline caused much concern and reassessment for many of the parties involved and required some redrafting of the structure plan.

The pipeline concerned was completed in 1999, only a little more than a decade prior to the Council's consideration of the structure plan, and it is not an inconsequential pipeline being one of three main natural gas pipelines supplying Melbourne. Based on the Safety Management Study the buffer required for this pipeline is considerable, a radial distance of up to 554 metres.

The Panel was told that if a full bore rupture of the pipeline occurred the effect of exposure in the heat flux zone would be pain in 15 to 20 seconds and injury after 30 seconds exposure (at least second degree). Within 324 metres, the Panel was informed there would be a significant chance of fatality and a high chance of injury if the pipeline ruptured.

In its report the Panel noted that there is no reference to this pipeline in the relevant section of LPPF in the Greater Geelong Planning Scheme and the presence of this gas pipeline had not been considered by previous Panels considering Planning Scheme Amendments for the Lara area.

The Panel commented:

In accordance with Clause 19.03-6 it would be appropriate to "recognise existing transmission-pressure gas pipelines in planning schemes" in a formal way, perhaps with high-pressure gas pipeline routes and associated "heat flux zones" marked on scheme maps with a dedicated Overlay control.

Based on the buffer requirements the Panel recommended that the LWSP and the UGZ Schedule be amended to exclude sensitive uses such as schools and community facilities within the 554 metre heat flux zone and that certain intense or sensitive uses also be excluded from this zone, residential development be limited to 30 lots per hectare and any permit application for use, development or subdivision be referred to Energy Safe Victoria.

Additionally the Panel recommended that notice be given about the existence of pipeline to for newcomers buying into the area as this would avoid post-sale disputes between purchasers and the developer or Council.

APA Group advised this Advisory Committee that there is a gas pipeline at Fisherman's Bend next to which a school and community facilities are planned and Mobil said the petroleum pipeline from its facility to Avalon is being encroached.

(ii) Pipeline Act and Regulations

The *Pipeline Act 2005* applies to onshore pipelines that are used to convey petroleum, oxygen, carbon dioxide, hydrogen, nitrogen, compressed air, sulphuric acid or methanol as well as any other pipeline that the Minister for Industry, Energy and Resources declares to be a pipeline for the purposes of the Act. It does not apply to low pressure pipelines, pipelines within for example a freehold, a petroleum refinery, railway yard, airport or port (within the meaning of the *Port Management Act 1995*), a residential property or factory and under certain circumstances pipelines conveying liquid hydrocarbons.

A pipeline to which the *Pipeline Act 2005* applies is required to be licenced and construction is prohibited within three metres of a licenced pipeline.

The *Pipeline Regulations 2007* requires among other things that gas and petroleum pipelines be constructed to Australian Standard AS 2885.1: Pipelines—Gas and liquid petroleum Part 1: Design and Construction and operated to AS 2885.3: Pipelines—Gas and liquid petroleum Part 3: Operation and maintenance. The regulations also require the preparation of a Safety Management Plan and that owners and occupiers of land in a pipeline corridor be notified during the pipeline development. In accordance with AS 2885 the pipeline operator and applicant are required to determine, based on the diameter and operating pressure, the pipeline's measurement length. Developments in the measurement length require referral to the pipeline operator and the applicant may need to do a Safety Management Study (SMS) in accordance with AS 2885.

The Committee was informed by Energy Safe Victoria that there are around 200 licences for the delivery of natural gas via onshore high pressure gas pipelines alone and these supply natural gas to 1.5 million residents and 50,000 businesses. The Committee is unaware of the number of additional licenced pipelines.

An interdepartmental working group with representation from Energy Safe Victoria, the Australian Pipeline and Gas Association, MPA, DELWP and the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) has been established to consider planning issues around pipelines. Similarly DEDJTR is working with EPA, local Government and others on encroachment issues. Both Energy Safe Victoria and DEDJTR requested that the Advisory Committee include planning issues around licenced pipelines in its considerations.

Thought starters:

- | |
|--|
| <p>32. Given there is already a legislative framework for pipeline protection, does the planning system need to include additional provisions?</p> <p>33. Could a risk based spatial overlay developed for MHF and industry with a specific schedule for pipelines be a potential tool for use in identifying major pipelines in planning schemes?</p> |
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Appendix A Terms of Reference

Terms of Reference

Major Hazard Facilities Advisory Committee

Advisory Committee appointed pursuant to Part 7, Section 151 of the Planning and Environment Act 1987 to report on improvements to the way land use buffers around Major Hazard Facilities are determined and implemented.

Version: 14 September 2015

Name

1. The Advisory Committee is to be known as the 'Major Hazard Facilities Advisory Committee'.
2. The Advisory Committee is to have members with the following skills:
 - a. Technical and policy experience working with regulatory frameworks related to managing risk, environmental assessment and adverse impacts on safety and amenity, such as the *Dangerous Goods Act 1985* and *Environment Protection Act 1970*.
 - b. Expert knowledge and experience of the Victorian land use planning system in different development settings, including urban renewal and growth areas in a metropolitan and regional context.
 - c. Expertise in strategic and statutory land use planning, including a sound understanding of the implementation of policy through land use planning decisions.

Purpose

3. The purpose of the Advisory Committee is to provide advice to the Minister for Planning about improvements to land use planning for areas surrounding major hazard facilities (MHFs), in order to better manage the interface areas between existing and new development and land used for MHFs.
4. The Advisory Committee is to provide advice and present its findings and conclusions on the following matters:
 - a. The issues and challenges for Victoria's land use planning framework in protecting the safety and amenity of residents and businesses in areas surrounding MHFs and ensuring the ongoing viability of MHFs.
 - b. The role of the land use planning system in mitigating any potential adverse impacts on local communities from MHFs and any potential adverse impacts of urban growth and renewal on MHFs.
 - c. Approaches and measures to address the identified issues and challenges, including potential improvements to the way land use planning can complement other regulatory frameworks that aim to protect the safety and amenity of residents and businesses in areas surrounding MHFs, and the role of State, local government and relevant agencies, such as WorkSafe and the Environment Protection Authority.
 - d. The information and tools required to support appropriate, timely and consistent land use planning decisions for areas surrounding major hazard facilities, including criteria for land uses that are appropriate in areas surrounding MHFs, and the most effective way to implement these.

5. The Advisory Committee is to make recommendations on the following matters:
 - a. issues to be addressed for each of Victoria's 40 registered MHFs and principles about how the land use planning system can assist in managing risks and any adverse impacts, including the potential role and function of land use buffers.
 - b. principles for applying land use buffers more broadly to other uses with adverse amenity potential.
6. The Advisory Committee's recommendations should enable the following outcomes to be achieved:
 - a. Streamlined processes and approvals with clear and consistent guidance for proponents and decision-makers.
 - b. Decision-makers are able to balance urban growth and renewal opportunities with the protection of established facilities.
 - c. Clarity on the scope, application and relationship of relevant planning scheme provisions and other "non-planning" tools, such as WorkSafe land use planning advisory notes and EPA publications and guidelines.

Background

7. The Victorian Government is committed to conducting an inquiry into regulations for neighbourhoods near major hazard facilities to preserve resident's safety while allowing industries to operate and grow.
8. The State Planning Policy Framework supports the protection of air quality, industrial development, essential community infrastructure and residential amenity and provides an overarching policy basis for the protection of industries from encroachment of unplanned sensitive uses and the protection of residents from adverse effects.
9. Plan Melbourne includes a number of initiatives related to land use buffers for issues such as extractive industry; noise; air quality; freight; water and sewerage assets; and waste management. The Local Government Buffer Support Program is an example of work by the Metropolitan Waste and Resource Recovery Group to develop a suite of land use planning tools and other effective measures that can be used by local government, industry professionals and site owners to better manage interface areas with waste and resource recovery facilities.

Method

10. The Advisory Committee may apply to vary these Terms of Reference prior to submission of its reports.
11. The Advisory Committee may inform itself in anyway it sees fit, but must consider:
 - a. The requirements of the VPP, Clause 52.10, related provisions such as Clause 66, policies in the State Planning Policy Framework, and where relevant, Plan Melbourne and Regional Growth Plans.
 - b. Land Use Planning Advisory notes issued by WorkSafe.
 - c. The requirements of any relevant EPA publications and guidelines and Statements of Environment Protection Policy.
12. The Advisory Committee is expected to consult with the parties nominated in Clause 14 and prepare and publish a Discussion Paper that takes into account the matters raised in Clause 11, within 40 business days from the date of its appointment. This paper should be made publicly available for the purposes of public consultation. The Advisory Committee must ensure the Discussion Paper is made

widely available for consultation for a period of 20 business days, including through public notification, if required.

13. The Advisory Committee must invite public submissions about the Discussion Paper in the context of its Terms of Reference and consider all submissions.
14. The following parties should be asked to present to the Advisory Committee (all such proceedings will be open to the public, unless specific matters of commercial confidentiality are demonstrated):
 - a. WorkSafe, Environment Protection Authority, Port of Melbourne Corporation and any other relevant agencies.
 - b. Groups representing residents and local communities in areas surrounding major hazard facilities.
 - c. Owners/ operators of major hazard facilities and relevant industry bodies and stakeholders.
 - d. Local government.
15. The Advisory Committee may meet and invite others to meet with them when there is a quorum of at least two Committee members.
16. The Advisory Committee may limit the time of parties appearing before it in the interests of efficiency
17. The Advisory Committee may prohibit or regulate cross-examination.
18. The Advisory Committee may appoint its own legal counsel to assist in any of its deliberations if required.

Submissions are public documents

19. The Advisory Committee must retain a library of any written submissions or other supporting documentation provided directly to it until a decision has been made on its report or five years has passed from the time of its appointment.
20. Any written submissions or other supporting documentation provided to the Advisory Committee must be available for public inspection until the submission of its report, unless the Advisory Committee specifically directs that the material is to remain confidential.

Outputs

21. The Advisory Committee must produce a written report for the Minister for Planning including:
 - a. A response to the 'Purpose' of the Terms of Reference.
 - b. An assessment of submissions to the Advisory Committee.
 - c. Any other relevant matters raised in the course of the Advisory Committee hearing.
 - d. A list of persons who made submissions considered by the Advisory Committee.
 - e. A list of persons consulted or heard.
22. The report may be submitted in two stages, that being the Discussion Paper and the Final Report.

Timing

23. The Advisory Committee is required to complete its research, preliminary consultation and the preparation of the Discussion Paper within 40 business days from the date of receipt of notification of its appointment.
24. The Advisory Committee is required to commence its hearings and workshops within 30 business days from the release of the Discussion Paper.
25. The Advisory Committee must complete its work and submit its final report to the Minister for Planning within 8 months of its appointment.

Fee

26. The fee for the Advisory Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
27. The costs of the Advisory Committee will be met by the Department of Environment, Land, Water and Planning (Planning).


Richard Wynne MP
Minister for Planning

Date: 24/9/15

The following matters do not form part of the Terms of Reference:

Project Manager

28. Technical input to the Advisory Committee can be provided by Fleur Elijah, Senior Policy Officer, Planning or alternate nominee of John Ginivan, Executive Director, Planning and Building Systems, Department of Environment, Land, Water and Planning.
29. Day to day liaison for the Advisory Committee will be through Greta Grivas, Senior Project Officer of Planning Panels Victoria on telephone (03) 8392 6393 and email Greta.grivas@delwp.vic.gov.au

Appendix B Initial consultation list

APA GasNet Australia (Operations) Pty Ltd	Melbourne Water Corporation
Arch Wood Protection (Aust) Pty Ltd	Metropolitan Fire Brigade
Australian Rail Track Corporation	Metropolitan Waste and Resource Recovery Group
Australian Vinyls Corporation Ltd	Mobil Refining Australia and Mobil Oil Australia
BHP Billion Petroleum Pty Ltd	Monbulk Business Network
BOC Limited	Mornington Peninsula Shire Council
Brimbank City Council	Municipal Association of Victoria
Caltex Australia Petroleum Pty Ltd	Nillumbik Shire Council
Cardinia Shire Council	Nufarm Australia Ltd
City of Greater Dandenong	Origin Energy Resources Pty Ltd
City of Greater Geelong	Paper Australia Pty Ltd
Corangamite Shire Council	Peninsula Speaks Inc.
Department of Economic Development Jobs Transport and Resources	Port of Melbourne Corporation
Department of Infrastructure and Regional Development	Preserve Westernport Action Group
Dow Chemical (Australia) Ltd	Qenos Pty Ltd
Elgas Limited	Ratwise
Emergency Management Victoria	Safe Work Australia
Energy Australia Gas Storage Ltd	Save Williamstown
EPA Victoria	Stolthaven Coode Island Pty Ltd
Esso Australia Pty Ltd	Supagas Pty Ltd as Trustee of the AFT Trust Unit
FBT Transwest Pty Ltd	Terminals Pty Ltd
Hepburn Shire Council	Toll Holdings
Hexion Pty Ltd	Transport Safety Victoria
Hobsons Bay City Council	United Petroleum Pty Ltd
Hobsons Bay Residents Association Inc	VicRoads
Inspector-General for Emergency Management	Victoria State Emergency Service
Ixom Operations Pty Ltd	VicTrack
Latrobe City Council	Viva Energy Refining Pty Ltd
Lyondell Basell Australia Pty Ltd	Wellington Shire Council
Mad Cow Monbulk	Westernport and Peninsula Protection Council Inc.
Maribyrnong City Council	Williamstown Newport and Spotswood Residents Association Inc
Maribyrnong Residents Association	WorkSafe Victoria
Maribyrnong Truck Action Group (MTAG)	Wyndham City Council
Melbourne City Council	Yarra Ranges Shire Council