9 February 2016

Mr Nick Wimbush
Major Hazards Advisory Committee
C/- Planning Panels Victoria
Level 5, 1 Spring Street
Melbourne VIC 3000

Dear Mr Wimbush and Committee

Re: Advisory Committee Discussion Paper – Major Hazard Facilities (21 December 2015)

We write in relation to the abovementioned Discussion Paper which was open for comment from 21 December 2015. Council appreciates the opportunity to provide feedback on the document and the discussion points it contains.

It is noted that although there are no defined Major Hazard Facilities (MHF) within the City of Melton, the City does contain High Pressure Gas Pipelines and there are also Major Hazard Facilities located in close proximity to the City of Melton’s boundaries.

Council also recognises that given that the specified list of MHF can change over time, there is a possibility that a Major Hazard Facility could be located in the City sometime in the future hence contributing to documentation is important.

It is also important to note that the City does contain some facilities which are considered to be high risk, even though they aren’t necessarily classified under the Worksafe MHF definition, these include quarry and landfill uses. Whilst these aren’t necessarily explored as part of this Discussion Paper, they are considered to have many of the same issues this Paper identifies.

Council is aware that impacts for these types of waste facilities are being investigated by other Government bodies, in particular the assessment of buffers. For efficiency, has there been consideration of combining both pieces of work, or at least sharing the findings of these two bodies of work?

Discussion Paper Specific Comments

- What are the facilities identified as MHF? Even though the document refers to these 40 facilities, it would be useful to provide a list, map or location where this information can be sourced.
Integration into Planning Schemes

- Council supports identifying MHF within Planning Schemes, in addition to those facilities which may not necessarily be classified under the MHF definition but still have many of the high risk attributes. However, there needs to be greater linkages between varying forms of Legislation within the Planning System, as often things can be missed if there is no clarity.

For example, Aboriginal Heritage is mentioned in the State Planning Policy Framework (SPPF), but not mapped in Planning Schemes. To avoid the situation of potentially issuing a permit that breaches another piece of Legislation there needs to be identification of MHF’s, buffers and risk areas in Planning Schemes (including for mapping and zoning/overlays). This would provide greater clarity to Councils and prospective applicants, landowners and purchasers to make informed decisions. This will also reduce potential risks to Councils and operators alike.

- Although Council supports the integration of planning controls into Planning Schemes, the ongoing reliance on Councils to run processes to integrate State level controls and controls for sites of State Significance into Schemes should be reviewed, particularly now Councils are being affected by rate capping. In this strict budgetary climate Council resources are extremely tight, both for staffing and financial resources, this is particularly the case for growth areas Councils.

Given these facilities are recognised by a State Government body and the protection of these facilities, and the surrounding area, are a matter of State significance, these scheme amendments should really be prepared by the State. This would avoid the added risk of the localised governance structure and local politics, where there is a greater possibility of amendments becoming political and potentially being abandoned, particularly for contentious issues. This would also ensure standardisation across the relevant Council areas.

- The above also relates to the assessment of permits, whereby Council officers often do not have the technical expertise to appropriately assess applications for MHF. Even if applications are accompanied by Technical reports, the assessment of these reports is difficult without the technical knowledge.

To avoid this, and to assist in the assessment process, the relevant Government Agencies for MHF and sites with similar risks to MHF (ie. EPA, WorkSafe and Authorities which control gas pipelines) should be made Determining Referral Authorities within Planning Schemes to allow them to use their technical expertise to consider the appropriateness of MHF’s and the impact of sensitive uses within any recognised buffer area. This would also ensure a consistent approach to the assessment of MHF facilities.

- Controls should be introduced into the Planning Scheme to limit the potential encroachment of sensitive land uses in close proximity to MHF’s and related buffer/risk areas. Policy in either the SPPF or LPPF alone will not address the issue, and there should be consideration of a new or modified Zone to clearly
articulate and control the potential for increased sensitive land uses in risk areas.

This could take the form of either a Special Use Zone (or other appropriate zone) or Overlay control, which could also include relevant buffer distances from such facilities. This would ensure clarity within the Planning Scheme so applications can be assessed in a transparent and streamlined manner.

In addition to the clarity of zoning and overlay controls, the introduction of a Particular Provision specifically relating to these facilities should also be considered within Planning Schemes. Particularly given they exist for uses with a comparatively low risk in comparison to these MHF and similar facilities (ie. Car Washes). This would assist further in the planning permit assessment process.

- The Discussion Paper includes discussion on buffers. Clause 52.10, Recommended Separation Distances for Industrial Residual Air Emissions (IRAE) Guidelines, reverse amenity and agent of change. The question posed on page 29 outlines that “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.” Council agrees that this should be considered for both MHF and other sites with risks, particularly given their locations are known and the principles are supported by the EPA.

By identifying these sites within planning schemes, and by imposing requirements (including referral) for proposed sensitive uses within a specified distance around these facilities, this is expected to avoid risk to sensitive uses, operators and Council alike. A good example is Clause 52.09 which imposes requirements (including referral) for certain sensitive uses within 500m of an extractive industry or an extractive industry area.

**High Pressure Gas Pipeline**

- Council strongly supports the review of High Pressure Gas Pipelines at State Level. It is hoped that this review will better identify pipelines and their relevant requirements for protection and land use. The identification of High Pressure gas and oil pipelines should occur both within Planning Scheme Mapping and the ordinance themselves. They should also be an obvious infrastructure element when planning the urban fabric, including being identified in Precinct Structure Planning documents. It should be noted, encroachment has already occurred as a result of Urban Growth Boundary changes in 2010, therefore previous buffers have already been encroached and need to be reviewed.

- It is also important that relevant Standards provide sufficient guidance on what the requirements are within the ‘Pipeline Measurement Length’. This guidance should be transferred into clear planning scheme controls within these areas to avoid ambiguity and the reliance on Council officers who are not technical experts in this field.
Once again, we thank you for the opportunity to comment on the Discussion Paper. Council officers would be happy to assist with any queries the Committee has regarding this submission. For further information, please contact Sophie Thompson, Senior Strategic Planner on (03) 9747 7200, or via email: sophiet@melton.vic.gov.au.

Yours sincerely

Peter Bean
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