



9 February 2016

Major Hazards Advisory Committee
Planning Panels Victoria
Level 5, 1 Spring Street
Melbourne, VIC, 3000

Advisory Committee's Discussion Paper Major Hazards Facilities

The Plastics and Chemicals Industries Association (PACIA) is the peak national body representing the chemistry industry. PACIA members include chemicals manufacturers, importers and distributors, logistics and supply chain partners, raw material suppliers, plastics fabricators and compounders, recyclers, and service providers to the sector.

The Australian chemicals and plastics industry is the **second largest manufacturing sector** in Australia. Our industry **employs more than 60,000 people**, with every job also creating five more in related supply chains. The industry **contributes \$11.6 billion** to gross domestic product, and **supplies inputs to 112 of Australia's 114 industries**.

Australia's entire society – businesses, consumers and governments – along with its natural environment receive enormous benefits associated with the safe, responsible and sustainable use of industrial chemicals. By supplying 112 of 114 Australian industry sectors, chemistry assists Australia to respond and address global challenges of protecting the environment, ensuring a safe and sustainable food supply and improving standards of living in Australia and elsewhere. Australia's chemicals and plastics industries are proud of its contribution, long-term certainty in planning conditions for industrial areas will encourage growth and sustainability for the chemistry industry in Australia.

The Chemistry Industry in Australia contributes significantly to the economy and to state employment. Australian industries are continually facing encroachment by sensitive land uses which can drive restrictions or place limitations on businesses to operate in a competitive manner or even worse become non-viable. Industry and residential areas are simply not compatible. Buffering industrial zones from sensitive land areas will minimise risk to community and ensure industry can operate effectively under regulated conditions without any additional burdens which can result from poor land use planning.

The reduction of industrial activity resulting from land-use encroachment can have a dramatic impact on residential communities resulting in higher unemployment and the loss of opportunities for youth looking to enter the workforce.

PACIA welcomes the opportunity to comment on the Major Hazards Advisory Committee's Discussion Paper. The Discussion Paper outlines in some detail the current planning system, highlighting the complexity of the current environment and the potential for conflicting decisions. The complexity also highlights the possibility for non-compliance and confusion over the relevant schemes. This complexity is further highlighted with the safety and

environment legislation and the relevant clauses that impact Major Hazard Facilities (MHFs).

PACIA believes that the issues raised in relation to MHFs, and the need to ensure appropriate planning procedures are in place, are relevant to many facilities and situation, not just MHFs. As identified in the discussion paper there are many 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. PACIA supports the development of land use planning risk assessment methodology and published risk criteria for each land use type. Clear limits that define when development should not occur must be developed.

The current planning policy framework is inadequate and a scheme administered by the State regulatory level should be developed. This would ensure that appropriate experts can deal with the complex issues that must be addressed and consistent decisions would be made.

Key Issues

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?

PACIA believes that the complexity of the hazards and associated risks of MHFs and other potentially hazardous developments require appropriate experts to assess. The current planning systems do not have this expertise and are too reliant on local municipal councils. PACIA believes these are best addressed within an appropriately resourced State Planning Department.

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?

PACIA would support the development of clearly defined land use planning risk assessment methodology and published risk criteria for each land use type. It is imperative that these be freely available and their development transparent.

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?

PACIA believes that a robust system should be developed that would be applicable for all MHFs.

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

PACIA believes that the term MHF has arisen out of the Occupational Health and Safety Regulations and its use in any other context may be inappropriate and confusing. In the planning context addressed in this discussion paper the issue of safe distances and inappropriate development applies to sites other than MHFs and to situations other than facilities (for example pipelines). A review of how the issue is handled in other jurisdictions and internationally should be undertaken reviewed and an appropriate approach identified.

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 information given to the local community?

This is a requirement of the current regulatory regime for MHFs.

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?

PACIA understands that the 'Inner and Outer Planning Advisory Areas' is appropriate for the context in which they were intended. There is a need for consistent Quantitative Risk Assessment (QRA) methodology and risk criteria to establish robust risk based limits.

7. Should risk areas around MHF, through Inner and Outer Planning Advisory Areas, be identified in planning schemes?

PACIA believes that risk areas around MHF, through Inner and Outer Planning Advisory Areas, should 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?

PACIA believes that the planning system would be the most appropriate mechanism.

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

A defined set of modelling requirements needs to be developed. MHF safety cases have been developed using the most appropriate methodology as defined by the operator and may not easily be adapted to the required Land Planning QRA.

10. Is the treatment of MHF in State policy adequate/appropriate?

The discussion paper clearly outlines the complex and inadequate treatment of MHFs in State Planning policies.

11. Should policy more clearly prioritise the protection of human life in areas around MHF similar to that provided under Bushfire policy?

The prioritisation of protection under government policies should be agreed and consistently applied.

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?

The main concern with using local planning policy in managing conflicts as described would be the inconsistencies created and the difficulty with enforcement. PACIA believes that Planning Policy at the State level would create consistency and a level playing field for industry.

13. Should a specific zone be considered and applied to all MHF such as the SUZ or a new zone?

PACIA believes that such a system could be considered but a robust planning mechanism should be developed.

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?

PACIA believes that encroachment and incremental intensification are significant issues that should be controlled by clear boundaries through the Land Use Planning process.

15. Could any new or modified zone include purposes, permit requirements, decision guidelines that identify and manage sensitive uses?

PACIA believes that a robust planning mechanism should be developed.

16. Should zones prohibit intensification of use or should they maintain a discretionary permit process?

PACIA endorses the use of stringent land use control planning.

17. Could or should an existing or new overlay be used to identify risk and manage development on land surrounding a MHF?

PACIA believes that a robust planning mechanism should be developed which may include new or existing overlays.

18. Should both use and development of land around a MHF be managed in an overlay?

PACIA believes this option should be further explored.

19. Could an overlay identify inner and outer hazards areas or be applied to identified areas (whether default or modelled)?

PACIA believes that if Land Use Planning QRA methodology risk contours are not available to generate inner and outer hazard areas then default distances could be used which are subject to review pending more rigorous QRA analysis at a later date or as required.

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

PACIA believes it is imperative that this type of information is made available as early as possible in the planning process.

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?

PACIA believes they should as they are significant stakeholders in the process with relevant expertise that needs to be considered and accepted.

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?

PACIA believes that a robust planning mechanism should be developed that includes engagement with these parties.

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?

This appears to be the most appropriate clause to be used; however it may require some amendment to be more definite.

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

PACIA believes the clause should be more definitive.

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?

PACIA supports this proposal.

26. Are the separation distances/buffer distances in Clause 52.10 and the IRAE Guidelines clearly justified and appropriate?

PACIA believes they are not clearly justified and their technical basis needs to be defined. They should be reviewed using available international benchmarks. It is important that the distances function in both directions, that is the 'reverse buffer' principle needs to be applied.

27. Might a clearer articulation in the planning system of principles around the need for buffers be useful?

PACIA supports this proposal.

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?

As discussed previously PACIA does not believe this is the case.

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.

PACIA agrees with this comment and believes it is major weakness in the current planning process.

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

PACIA believes this would be a useful addition and lead to better land use outcomes.

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

This issue would need to be considered as part of a robust planning system.

32. Given there is already a legislative framework for pipeline protection, does the planning system need to include additional provisions?

PACIA believes that further analysis of the pipeline legislation and its relationship to planning needs to be undertaken. It is our understanding that the planning system does need to provide additional provisions to protect against inappropriate land use, encroachment and intensification around pipelines carrying potentially hazardous or offensive materials.

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?

PACIA supports this proposal.

The MHAC may be interested in the latest US Chemical Safety Board video that specifically points to inadequate planning arrangements around potentially hazardous facilities. It is important not to dismiss this issue as relating to the US who do not have MHF regulations or simply a US State with deficient Land Planning controls that has allowed the encroachment of Sensitive Land Uses. The parallels with Victorian Land Use Planning around MHFs are important. The most important of these is the reliance on inadequate local planning policy. (<http://www.csb.gov/videos/dangerously-close-explosion-in-west-texas/>)

Victoria must act at the highest level of land use planning policy to ensure adequate distances around potentially hazardous or offensive facilities and prevent the encroachment or intensification by other sensitive land use developments. The consequences of getting this aspect of Land Planning Policy wrong are universally the same whether you are in Texas or Victoria.

Please do not hesitate to contact me you require any further information.

Yours sincerely,



Kathryn Walton
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