



<http://www.savewilliamstown.net>  
 ABN: 45 246 360 695

Mr Nick Winbush  
 Chairman  
 Major Hazards Advisory Committee  
 C/- Planning Panels Victoria Level 5,  
 1 Spring Street Melbourne  
 email: [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au)

Dear Mr Wimbush,

#### **Major Hazard Facilities Advisory Committee: Discussion Paper and Terms of Reference**

##### **Introduction**

First and foremost, we would like to thank you for your letter of 28 October 2015, inviting us, as a party identified in Clause 14 of the Terms of Reference, to provide initial comments on the matters raised in the Terms of Reference and thus assist in the preparation of the Discussion Paper.

##### **What is Save Williamstown?**

Save Williamstown is a community based organisation which was formed in 2009 to present a community voice about large scale inappropriate development in the Williamstown peninsula, which threatens heritage, resident safety and amenity, tourism, industry and jobs. Our 3000 supporters have a wide range of professional skills which have helped inform our submissions particularly in regard to maritime industry and hydrocarbon safety and necessary legal protections.

Our concerns for people include :

- Environmental safety for existing and new residents dwelling within and adjacent to the safety buffer zones and/or within access routes of the Mobil Major Hazard Facility at Pt Gellibrand.
- The part of the MHF which includes the pier associated with hydrocarbon importation by ship at Port Gellibrand. As with bush fire zones, evacuation and shelter-in-place considerations impact not only new residents but also pose dangers to existing residents and tourists in the peninsula when higher densities of population are planned.
- The danger to vulnerable residents - Save Williamstown has recently conducted an evacuation drill for community members to increase awareness of preparing for an emergency.

Save Williamstown has made several submissions and appeared before advisory committee enquiries and hearings - including the Port Phillip Woollen Mill Advisory Committee, the Ports and Environs Advisory Committee, Hobsons Bay City Council, VCAT and politicians.

During our attendance at hearings we have witnessed first hand the submissions made by Worksafe, Mobil, experts engaged by developers and individual professionals with regard to the Pt Gellibrand MHF. Given the different composition of Advisory Committees and Panels we are probably in a unique position to explain and contrast the considerations given to development close to the Major Hazard Facility at Point Gellibrand. This will of course form part of our later submission. However, it also allows us to make suggestions about variations which we consider necessary to the present Terms of Reference so as to produce more functional recommendations in the final report.

**SAVE  
 WILLIAMSTOWN**

SAVE WILLIAMSTOWN INC A0059430K  
 PO Box 689,  
 WILLIAMSTOWN VIC 3016

Email: [info@savewilliamstown.net](mailto:info@savewilliamstown.net)  
 12/11/15

## **Our Response to the Terms of Reference**

Our response covers the content, scope, reporting and timelines and we make specific recommendations on refinement and change to those items. To assist the Committee of the MHFAC in understanding our response, we have attached an edited copy of the Terms of Reference where red text indicates the changes we suggest and we also set out a table with the rationale for those suggested changes.

We consider that the proposed changes will allow for a more comprehensive and effective Discussion Paper. This will allow all participants to consider and submit on the additional matters raised *now* rather than needing to debate at some time during hearings the relevance of matters which might otherwise appear to be outside the Terms of Reference.

Our edited Terms of Reference follows with the detailed table of changes and their rationale after that.

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## **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) **including associated port facilities and pipelines**, 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, **MFB, Australian Maritime Safety Authority, Port Authorities and Energy Safe Victoria.**

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 **generally for all and specifically** for each **individual facility** of Victoria's 40 registered MHFs and principles both **generally and specifically** 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.

**c. population based health and safety logistical changes, statutory responsibilities, processes and resources**

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.

**d. Capability of planning authorities to obtain independent and impartial expert evidence to inform decision making and how any such expert evidence is funded**

## Background

7. The Victorian Government is committed to conducting an inquiry into regulations for neighbourhoods near major hazard facilities to **ensure** 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. **(√ AGREE IMPORTANT)**

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.

**d. Comparative reports and requirements interstate and internationally, particularly the planning guidelines developed by the UK Health and Safety Executive in response to the 2005 Buncefield incident.**

**e. Any other matters of importance that are identified**

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, **MFB, Australian Maritime Safety Authority, Energy Safe Victoria** 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

**e. Specialist professionals, professional associations, UK Health and Safety Executive, academics as identified through public advertising or invitation.**

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. (✓  
**AGREE VERY IMPORTANT)**

**19. The Advisory Committee may appoint its own safety/risk experts to assist in its deliberations and the review of submissions**

## **Submissions are public documents**

**20.19.** The Advisory Committee must retain a library of any written submissions or other supporting documentation provided directly to it **and the place of lodgement be publicised.** ~~until a decision has been made on its report or five ten years has passed from the time of its appointment.~~

**21. 20.** Any written submissions or other supporting documentation provided to the Advisory Committee must be available for public inspection until submission of its report, unless the Advisory Committee specifically directs that the material is to remain confidential.

## **Outputs**

**22. 24.** 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 **and organisations** who made submissions considered by the Advisory Committee.
- e. A list of persons **and organisations** consulted or heard.

**23.** The report may be submitted in two stages, that being the Discussion Paper and the Final Report.

### **Timing**

**24.** 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.

**25.** The Advisory Committee is required to commence its hearings and workshops within **30** business days from the release of the Discussion Paper, **excluding the period of public and school holidays**

**26..** The Advisory Committee must complete its work and submit its final report to the Minister for Planning within 8 months of its appointment.

### **Fee**

**27.** 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*.

**28.** 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: 24/9/2015

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](mailto:Greta.grivas@delwp.vic.gov.au)

**Table of suggested changes to the Terms of Reference to improve the coverage of the Discussion Paper**

| Terms of Reference Paragraph No | Terms of Reference wording & Suggested Changes in RED   | Rationale  |
|---------------------------------|---|--|
| 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) <b>including associated port facilities and pipelines</b> , in order to better manage the interface areas between existing and new development and land used for MHFs.   | Many MHFs have associated port facilities and pipelines which need to be considered in the planning context of safety for residential development encroachment. Mobil's Tank Farm at Pt Gellibrand is a case in point where the Port of Melbourne pier facility was included in the MHF from 2007 but the safety buffer map prepared by Worksafe subsequent to the inclusion of the pier did not reference the point of hydrocarbon transfer from ships. Yet in 1992 the Quantarisk report identified that point of transfer with a flash fire distance from a vessel at Pt Gellibrand as 1473m. |
| 4.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, <b>and the Environment Protection Authority, MFB, Australian Maritime Safety Authority, Port Authorities and Energy Safe Victoria.</b> | The role of the shipping inspection authority, MFB, all four port authorities in Victoria and Energy Safe Australia (responsible for Pipelines) need to be consulted otherwise there will be significant gaps in the consultation.<br><br>Where ports are concerned, most vessels are not under Australian Flags and yet proximity of residential or business development to those ships is an important aspect of safety. Hence our proposal to include the relevant federal authority AMSA who inspect foreign ships.  |
| 5.a.                            | issues to be addressed <b>generally for all and specifically</b> for each <b>individual facility</b> of Victoria's 40 registered MHFs and principles both <b>generally and specifically</b> 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.   | It is important to address general issues for any MHF but given the range of chemicals or products present in different facilities and the approvals issued, the specifics of each and every facility and the land use around those MHFs needs to be separately considered in the final report.  |
| 5.c.                            | <b>c. population based health and safety logistical changes, statutory responsibilities, processes and resources</b>  | In Victoria, Worksafe is the appropriate authority for <u>workplace</u> safety but it has a very limited advisory role for residential and people safety. This latter advice is unfunded, unregulated and contrasts with the UK Health and Safety Executive which is fully funded for research and advice to planning authorities. The MHFAC needs to consider providing advice on statutory change as there is a serious gap in Victorian Legislation re people safety where workers are not involved.  |
| 6.d.                            | <b>d. Capability of planning authorities to obtain independent and impartial expert evidence to inform decision making and how any such expert evidence is funded</b>   | Planning Authorities have relied on experts engaged and briefed by developers, industry and occasionally local government. People safety needs unconflicted independent expert advice procured by the planning authority but where the cost of that advice can be charged to developers who are the beneficiaries of successful development applications   |
| 7.                              | The Victorian Government is committed to conducting an inquiry into regulations for neighbourhoods near major hazard facilities to <b>ensure</b> resident's safety while allowing industries to operate and grow.   | To allow for future development "ensure" is a better word than "preserve"  |
| 10.                             | The Advisory Committee may apply to vary these Terms of Reference prior to submission of its reports.   | Good – this is necessary   |

| Terms of Reference Paragraph No | Terms of Reference wording & Suggested Changes in RED  | Rationale  |
|---------------------------------|--|--|
| 11.d.                           | <b>d. Comparative reports and requirements interstate and internationally, particularly the planning guidelines developed by the UK Health and Safety Executive in response to the 2005 Buncefield incident.</b>   | NSW, Western Australia and other states are know to have reports and requirements of relevance <i>which should be referenced</i> in the Discussion Paper. Worldwide there is much important research re vapour clouds, BLEVs etc. Detailed research and modelling has been undertaken in the UK after the Buncefield explosion. It is important that this material is considered by the advisory committee so that we can learn from the researched experience of others   |
| 11.e.                           | <b>e. Any other matters of importance that are identified</b>  | Important to follow up on any relevant material  |
| 14.a.                           | a. WorkSafe, Environment Protection Authority, Port of Melbourne Corporation, <b>MFB, Australian Maritime Safety Authority, Energy Safe Victoria</b> and any other relevant agencies.  | Additional Authorities which need to be consulted  |
| 14.e.                           | <b>e. Specialist professionals, professional associations, UK Health and Safety Executive, academics as identified through public advertising or invitation.</b>   | Risk management is a very specialised field and it is important that the hearings and workshops of the Advisory Committee are publicised so that expert organisations such as Gexcon and the Institute of Chemical Engineers can make submissions. We also propose that UK HSE be approached to learn about their methods and how they could be adapted to the Victorian context.  |
| 19. insert & renumber           | <b>19. The Advisory Committee may appoint its own safety/risk experts to assist in its deliberations and the review of submissions</b>   | As above – some expert organisations and individuals could help the committee in assessing and reviewing submissions. It is suggested that the UK HSE be paid to contribute either by a representative coming to Australia or via internet link.   |
| 20.                             | The Advisory Committee must retain a library of any written submissions or other supporting documentation provided directly to it <b>and the place of lodgement be publicised.</b> <del>until a decision has been made on its report or five ten years has passed from the time of its appointment</del> | Retention of material long term is very important. For example the “Quantarisk report - Hazard and Risk Assessment of the Gellibrand and Breakwater Piers, Williamstown for the Occupational Health and Safety Authority of Victoria by Schubach April 1992” is not available in either the State or Parliamentary Library but was found via Google’s indexing of library material in the Commonwealth Government archives. The material arising from the MHFAC should be available long term because any MHF incident will need analysis of what went wrong, what government had done to ensure people safety and why, and what futher regulatory changes may be needed. 5 years is too short a time for retention of materials in our opinion. Reference to the Coode Island incident goes back more than a quarter century, reference to the Westgate Bridge collapse goes back 4 decades, and the Buncefield Explosion was 10 years ago. As those involved may have retired or died retained materials in a library in pertuity is very important. |
| 22.d.                           | d. A list of persons <b>and organisations</b> who made submissions considered by the Advisory Committee.   | Persons listed should show what organisation they represent. Organisations should be allowed to respond.   |
| 22.e.                           | e. A list of persons <b>and organisations</b> consulted or heard.  | Persons listed should show what organisation they represent. Organisations should be allowed to respond.   |
| 25.                             | <b>25. The Advisory Committee is required to commence its hearings and workshops within 30 business days from the release of the Discussion Paper, excluding the period of public and school holidays</b>  | It is vitally important that people have full opportunity to make submissions on the Discussion Paper and it is quite impractical, disadvantageous and inappropriate to expect submissions to be prepared during the summer vacation period. If the process is to be fair, transparent and unconstrained hearings should not commence until at the earliest mid February because many institutions are closed over the late December to mid January period when staff and the community are on holidays.   |

Again we thank you for the opportunity to comment. We look forward to making submissions to this very important advisory committee and hope that its work will lead to an improved and more appropriate and safety effective planning system for residential and other development in the proximity of Major Hazard Facilities.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Gaud', with a stylized flourish at the end.

Charmian Gaud  
on behalf of the committee of Save Williamstown Inc.