29 January 2016

Mr Nick Wimbush
Major Hazards Facilities Advisory Committee
Planning Panels Victoria
GPO Box 2392
Melbourne VIC 3001

Dear Mr Wimbush,

Thank you for the invitation to make a submission to the Major Hazard Facilities Advisory Committee. Please note that the views expressed in this letter are those of Council officers and have not been formally endorsed by Council.

The Discussion Paper raises important issues regarding land use planning for areas surrounding Major Hazard Facilities (MHFs), and more broadly for the application of land use planning controls to other uses with adverse amenity potential. Council notes that the scope of the discussion has broadened somewhat from the Terms of Reference to now include an analysis of land use planning in proximity to high pressure gas and petroleum pipelines.

While there is no definition of MHFs provided in planning schemes, the Discussion Paper states that MHFs are industrial 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. Examples may include oil refineries, chemical manufacturing sites, gas processing plants, LPG facilities, some warehousing and transport depots, and water treatment plants.

The Silvan Reservoir

Of the roughly 45 approved MHFs in Victoria, Yarra Ranges LGA contains only the Silvan Reservoir located at Stonyford Road, Silvan and owned by Melbourne Water. Treatment facilities associated with the reservoir are generally buffered from nearby residential and commercial land uses by on-site areas of native bushland. The Silvan Reservoir is classified as an MHF owing to the storage of large quantities of liquid chlorine gas. According to the Safety Case for this facility, a leakage of chlorine gas has potential to affect areas outside the boundary of the facility. The Safety Case states rather vaguely, 'the exact locations (affected) would depend on the wind speed and direction'. Yarra Ranges notes that the nearest populated areas are Monbulk Road to the north and east and residential areas of Silvan.

Council is concerned about the lack of clear, easy-to-find information relating to the risk of a chlorine leakage incident at the Silvan Reservoir. There appears to
be no mapping or spatial representations to indicate risk areas surrounding the facility, which is crucial information for any planning department.

The guidance note available on the Worksafe website entitled Land Use Planning Near a Major Hazard Facility recommends that authorities with concerns over land use and development changes near MHFs seek advice as needed from Worksafe. However, the means by which planning departments should identify where such concern is warranted is not clearly explained. The guidance note refers to Worksafe designations of land surrounding MHFs as 'inner planning advisory areas' and 'outer planning advisory areas', with an example given of Coode Island in Port Melbourne:

It is assumed that any planning applications or planning scheme amendments which would result in an increased number of people residing in or frequenting these inner or outer areas should be referred to Worksafe for advice. Worksafe explains that it is “progressively providing maps to each authority responsible for planning”. However, Yarra Ranges does not appear to have this mapping information on the Silvan Reservoir. If Worksafe have provided it since 2010 when the guidance note was written, it is unknown to senior planning staff.
Problematically, the reference to Major Hazard Facilities in planning schemes is a brief one in Clause 17.02-2, not widely known. Generally planning staff are unaware of the details of Worksafe regulations relating to MHFs.

While some approved MHFs have obvious potential for incidents causing death or injury (i.e. oil refineries), in other cases this is not immediately apparent. The Silvan Reservoir would seem an example of an MHF where on-site activities, chemical storage, and the potential impacts of an incident may not be known to a Council planning department. With no explicit referral requirements in Clause 66 of the planning scheme, and no substantial reference to Major Hazard Facilities in the Victoria Planning Provisions, it would seem optimistic to expect a local government planner to find the Worksafe Victoria guidance note and make the suggested referral.

Yarra Ranges considers that there is a need for more clarity and transparency in relation to land use planning near MHFs. This could take a variety of forms, such as:

- a specific zone to apply to MHFs with referral requirements for planning applications within prescribed distances
- an overlay to show surrounding areas of risk
- a particular provision with details of MHFs, safety buffer distances and other needed information. Particular Provisions have the disadvantage of potentially being overlooked in planning schemes. Adding any MHF information to Clause 52.10 would assist with this, and would be preferable to creating a separate Clause.
- a register of MHFs to be included in relevant planning schemes as an incorporated document

Ideally, any property in an area at risk of being affected by an incident at an MHF would be mapped and shown clearly in planning schemes and Section 32 statements. Planning scheme ordinance would provide explanation of what MHFs are, planning considerations near MHFs, as well as clarity over referral requirements to Worksafe Victoria and/or the EPA.

Other land uses with adverse safety and amenity potential

There are a number of other land uses in Yarra Ranges with potential to affect the safety and amenity of surrounding land. These include quarries, intensive animal industries and other agricultural uses, and part of the Cardinia Reservoir located at 1340 Wellington Road, Narre Warren East. Consequently, the general application of planning controls to uses with adverse safety or amenity potential is a pertinent issue.

Of particular interest to Yarra Ranges, the Discussion Paper includes commentary on the concepts of the ‘agent of change’, and ‘reverse buffers’. In Yarra Ranges, many of the above uses fall within green wedge areas where agriculture, quarries and reservoirs, among others, are valued land uses often needing protection from urban encroachment and other conflicting land uses. The application of concepts such as the agent of change is generally consistent
with the purposes of green wedge zones and decision guidelines. For example, the Green Wedge Zone includes considerations such as:

- Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining land uses
- The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agriculture and other land uses
- The protection and retention of land for future sustainable agricultural activities

The Discussion Paper notes (p.35) the problem that zones applied to areas surrounding MHFs, and by extension to other uses with adverse amenity potential, often do not provide for hazards and risk to be considered. While there are a number of mechanisms that could address this, Yarra Ranges considers that if Major Hazard Facilities and other hazards were clearly defined and mapped in planning schemes, the above principles used in the Green Wedge Zone could be applied more widely to other areas surrounding MHFs and other lesser hazards via decision guidelines in the relevant zones. This could be supported by explanation of MHFs and other hazards in the SPPF and clear statements in Clause 66 as to the proximity within which a specific determining or recommending authority must be contacted.

High pressure gas pipelines

The Planning Panel report for Geelong C246 presents a disturbing picture of a regulatory system under equipped to effectively plan for safety around pipelines. While Yarra Ranges does not have pipelines of the size of that mentioned in C246, there are gas pipelines in proximity to future development sites in Yarra Ranges, and notably the Lilydale Quarry anticipated to accommodate approximately 2000-3000 dwellings supported by community facilities, public open space, a potential rail station, employment/mixed use areas and a small neighbourhood shopping centre.

Council understands that the Minister for Energy and Resources provides input into land use planning decisions near gas and petroleum pipelines via the planning scheme amendment process, where the Minister receives notification under Section 19(1)(c) of the Planning and Environment Act 1987. Geelong C246 is an instance where substantial previous planning work, including structure planning and two previous planning scheme amendments (Greater Geelong C73 and C198), had revealed no concern from the Minister’s office or other sources over proximity of proposed development to pipelines. Yet substantial concerns surfaced over C246 which led to the Panel recommending a reformulation of the planning scheme amendment to adequately account for recommended ‘heat flux zones’. The case of C246 therefore represents the ease with which this issue can pass through the planning system unchecked and seemingly unregulated.

Yarra Ranges has concerns with the transparency and effectiveness of this process. Under the current system, Councils effectively need to wait and hope that a Section 19 notification involving use or development near a pipeline is
correctly acted on by the Minister's department. Bearing in mind the lessons of Greater Geelong C246, it is suggested that Council's should be equipped with the knowledge to identify concerning instances of proposed development near pipelines and make the relevant referrals proactively. In order for this to occur, areas of risk would need to be mapped and integrated into the planning scheme in some capacity. Importantly, this would provide a mechanism for Councils to seek the required expert advice not only in relation to planning scheme amendments, but earlier in the planning process when structure plans and other strategic work is being undertaken. It would also enable Council to seek advice on planning permit applications such as large subdivisions near pipelines, which current legislation does not provide for.

Should you have any queries about this matter, please contact Ben Champion, Strategic Planner, on 9294 6147.

Yours sincerely

[Signature]

**Damian Closs**
Manager Strategic Planning