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Dear Mr Wimbush

### **Submission to the Major Hazards Facilities Advisory Committee (The Committee)**

#### **Introduction**

Wyndham City Council appreciates the importance of managing Major Hazard Facilities (MHF) due to the potential catastrophic impact in the event of failure of such facilities. The Council therefore welcomes the opportunity to make submission to the Major Hazard Facilities Advisory Committee. Wyndham City Council also fully supports the submission by the local government peak body, the Municipal Association of Victoria (MAV).

Located within the western region of Melbourne, with a regional gross product estimated at \$6.7 billion, Wyndham City Council is one of the fastest growing Councils in Victoria, with land area covering 542km<sup>2</sup>, a total of 184,000 residents population and is also home to a diversity of sectors including strong industrial and technology sectors, major retail precincts, health care and education and intensive vegetable growing and grazing lands.

The Laverton North and Truganina Industrial Precincts located within the western industrial node are recognised as major manufacturing and logistics hubs. The precincts offer a large supply of relatively affordable zoned land. The region has significant locational advantages, including access to ports, airports, freeways and the Melbourne Central Business District.

The Werribee South Irrigation District (WID) comprises 3000 hectares, with 2,350 hectares utilised for intensive agriculture. The WID annual value of production at market is estimated at \$200million. The WID generates a large percentage of the total annual Victorian production of many vegetables including 85% of the state's cauliflower and 50% of the state's broccoli consumption.

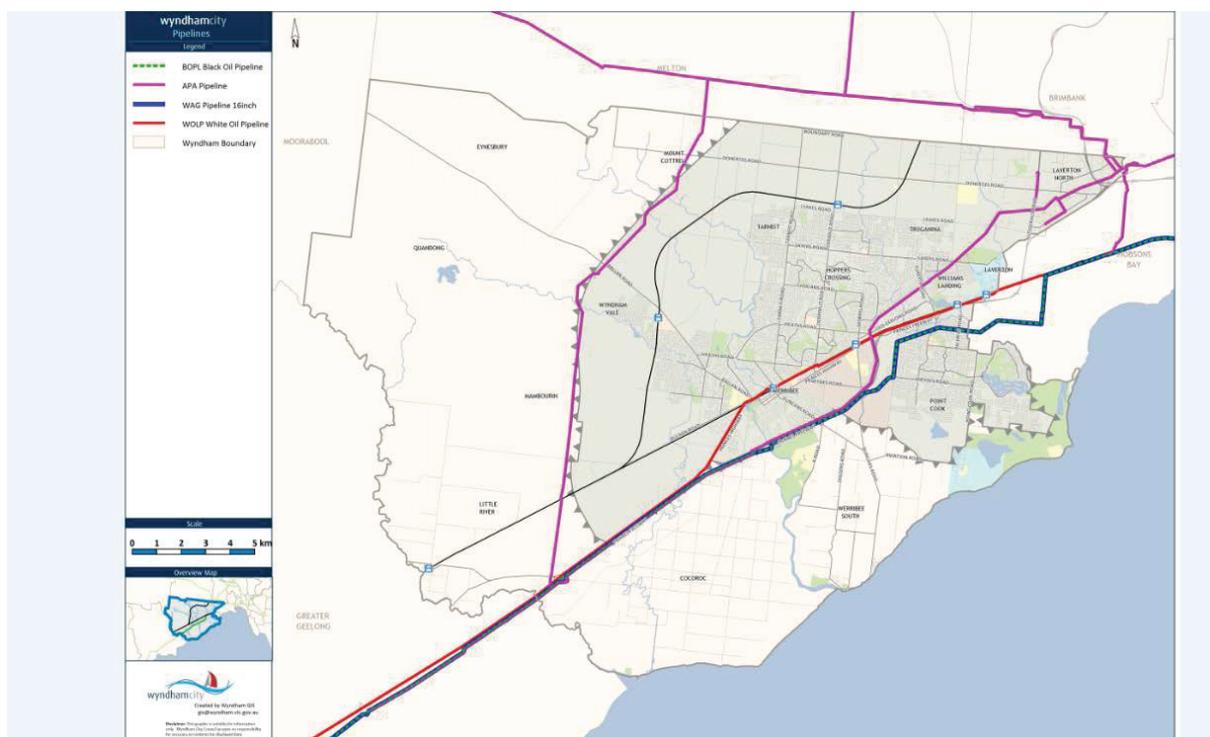
Wyndham City is committed to the reinvigoration and redevelopment of the Werribee City Centre as a major retail, commercial and residential hub. The Council is committed to

working with the state government in the future development of the Werribee Employment Precinct as a generator of high density white collar employment opportunities and residential development.

Wyndham City Council has recently adopted the Housing and Neighbourhood Character Strategy, which aims to manage housing growth and development into the future. The implementation of the Strategy is well under way, and will see areas in proximity of infrastructure and public transport maximised for intensive development. Areas designated for urban intensification in the strategy include existing residential areas around Werribee town centre and Hoppers Crossing.

## Pipelines

Council recognises the crucial role pipelines play in providing and meeting the needs of communities with energy. Council notes the construction and ongoing operation of pipelines present significant challenges, particularly, in the Wyndham context where a large part of the municipality, previously predominantly rural, is being transformed and transitioning to urban. The map below provides at a glance the location and alignment of the existing pipelines within the Wyndham municipal boundary. The map also indicates that the pipelines (almost) encircle the entire municipality, and runs through both the established and the growth areas and have significant implications for Wyndham.



The presence of pipelines means that some adjacent developments/use, may not be compatible. The intermix of high pressure pipeline infrastructure and development reflects

the long term separation of the pipeline regulatory system and the land use planning system.

While the State Planning Policy Framework provides an overarching framework for decision on areas within proximity of pipelines, there is potential for clearer guidance to support Council.

Below is the submission by Wyndham City Council. The submission responds to the issues and options proposed in the Discussion Paper, with particular focus on areas that affects Wyndham City Council.

### **Issue 1 - Hazards, risk and consequence**

#### *Definition of a Major Hazard Facility*

Wyndham City Council welcomes and is supportive of a formal definition of 'Major Hazard Facility' being included within the Planning Scheme. Any definition included should be specific, clear and tangible. The definition should go beyond what is included in the Worksafe definition to include a higher level of detail outlining specifics of operations that would qualify as presenting a major risk to human life, therefore qualifying that facility as an MHF. If there is confusion over what might constitute a MHF, it should not be left to the responsible authority to determine. A central body (potentially a "referral authority", as discussed further within this submission) should be created to deal with queries about MHFs and provide certainty in determining what type of infrastructure/facility would qualify as an MHF, as Councils do not have expertise to make these types of assessments.

The definition should not refer to the OH&S Act (as the Worksafe definition does), as it will make determining what constitutes an MHF a more complicated/convoluted task for all relevant stakeholders, including the responsible authority.

Council also welcomes and is supportive of a definition that is inclusive of clear understanding of what constitutes major pipelines, particularly in regards to oil and gas infrastructures that present major risks to life and properties.

#### *Risk assessment and modelled hazard boundaries*

Boundaries around Major Hazard Facilities should be modelled based on the risk the specific MHF presents to human life. This modelling should be based on a 'Safety Case' which would be required to be undertaken by the owner/operator of the facility/infrastructure. These models should form the basis of any planning control. Any risk assessment should be based on the "precautionary principle' with a focus on reducing community's exposure to risks, particularly life and property.

#### *Reflection in the planning system*

The abovementioned modelling should inform the way in which any planning controls are implemented, to protect human life around MHFs.



## *Policy*

Council notes and supports the current policy framework in Clause 19.03 (Pipelines), however, the policy needs to be strengthened and supported by local level recognitions that address individual Councils specific circumstances that provide clear direction for Councils and the community around MHFs and pipelines. At the state level, clear guidelines and practice notes are required to assist Council in processing planning applications and planning scheme amendments. The Ministerial Direction 15 should also be amended to include a consideration of MHFs in the strategic assessment of a planning scheme amendment proposal.

## *Zones and Overlays*

Appropriate planning control is supported and the Council welcomes the inclusion of MHFs in a site specific zone or overlay, especially for large facilities such as major petro-chemical industries. The purpose of such planning control should prioritise the protection of life and property. Such control should also consider the impact of MHFs on non-residential occupiers. The reformed industrial zones have seen the expansion of non-industrial uses within the industrial zones. This has implication for increasing the population densities within proximity of MHFs.

It is considered that using an Overlay (either existing or new) to control land use and development around existing facilities may be more appropriate in some instance to reflect the differing type and size of MHF facilities. The mapping of the zone or overlay area should be based on the risk modelling within a Safety Case undertaken by the operator of the facility/owner of the infrastructure.

A prescriptive approach should also be included to ensure only appropriate land use or developments are able to establish to provide certainty of outcome to the community similar to the approach adopted for airport environs and available under the Melbourne Airport Overlay.

If such a control is implemented, it should be clear what types of uses are sensitive to the specific MHF, what uses/developments are prohibited and it should require referral of other proposed uses or developments to a determining referral authority. Minimal discretion should be allowed to be exercised by the responsible authority. Councils, in general, do not have the expertise to assess risk around MHFs. For this reason, all “permit required” uses/developments within an identified MHF buffer area must be required to be referred to a determining referral authority. This would ensure that any control implemented or decision made is based on the risks specific to a facility, rather than a general buffer distance.

Wyndham City Council acknowledges that the protection of human life takes priority over other planning outcomes, though would request that other considerations be assessed where Major Hazard Facilities are located within areas with high employment densities



(such as Laverton North industrial estate). The importance of generation of employment opportunities for the region must also be a consideration.

### *Particular Provisions*

The use of zone or overlay may not be appropriate for all facilities particularly small facilities MHFs in small land holdings, a particular provision in Clause 50 may be more appropriate to capture this type of facilities, similar to licensed premises. This particular provision may be used to address issue relating to application requirements, buffers, notice requirements etc. The use of a Particular Provision is beneficial, as it will remove the need to initiate a planning scheme amendment when a new facility is established.

The current Clause 52.10 should be strengthened to provide better guidance and clear notification requirements. Some aspect of the current 52.10 provision are unclear and more often requires Council to depend on the applicants to explain the type of goods, processes etc. to understand whether a referral to EPA is triggered or.

This provision could be reviewed to capture MHFs as well.

### *Notification of risks*

Council supports greater notifications and consultation to be undertaken particularly where a new facility or a change to the existing one is proposed. This should also capture changes that seek to reduce the current buffers.

Notification of the risks surrounding MHF's should be wide ranging and should include notice on the planning certificates. Residents, owners and occupiers of land within designated buffer areas (based on risk modelling/ Safety Cases) should be notified that they are within a designated buffer area for an MHF. This may be done if the Scheme is amended to include a new Overlay control (as recommended above), or before.

Furthermore, Council also considers that where new facility or major upgrade to existing facilities are proposed, a requirement for notification to nearby properties should form part of any planning controls.

### *Referral authority's requirements*

Wyndham City Council recommends that a determining referral authority be set up to specifically deal with planning application referrals for use and development within modelled buffer areas around MHF's (informed by Safety Cases required to be undertaken by the operator or owner of the plant/infrastructure). The authority should also look at referrals for planning applications for new MHF's.

It should be the responsibility of the referral authority to inform Council whether it is appropriate to issue a planning permit for uses or development surrounding MHF's, or what conditions should be required to be imposed if a permit can be issued. Similarly, the referral



authority must inform whether an application for a new MHF should be approved or refused and what conditions, if any, should be incorporated in any planning permit issued.

A designated Determining Referral Authority must be also tasked with fielding enquiries regarding how applications for new MHF's or development/use around existing MHF's are assessed, as Wyndham City Council does not have the expertise to explain the risk factors around certain MHF's or the potential risk mitigation measures that may be required to be implemented. The referral authority must also field enquiries about what would constitute an MHF.

## **Issue 2- Adverse Amenity**

### *Buffers/separation distances*

Wyndham City Council recommends that buffer and separation distances are determined for each specific MHF based on their individual risk factors, as determined in the Safety Case investigation on each facility. It is recommended that these separation distances be used to implement an Overlay control surrounding each facility.

Simply using these distances in the way in which they are used in Clause 52.10 leaves too much uncertainty about the location of the exact "buffer boundary", which would lead to confusion and complications in determining what land is potentially at risk from each MHF.

With respect to the pipelines, consideration should be given to the heat flux zone or the measurement length based on the risk assessment study.

### *Reverse amenity and agent of change*

The implementation of an Overlay control based on the buffer distances (as determined by Safety Cases or other risk assessment studies) should ensure that the concept of "reverse amenity" is addressed. Existing industries including MHFs and pipelines should be protected from encroachment from incompatible uses or developments. Any new approach need to be cognisant of this and preclude such uses from being able to be established within the buffer thresholds. Providing a clear definition of what constitute non-compatible or sensitive uses within an industrial context (MHFs) should be clear.

## **Issue 3- Sensitive uses**

### *Wyndham's submission*

There needs to be a formal definition of what constitutes a "sensitive use" within the Planning scheme. Different uses may have different level of sensitivity to different types of facilities – the risks in relation to this point need to be analysed, quantified and considered to determine the best controls to be implemented around defined MHF's.

The risks around high employment industrial/commercial uses in relation to MHF's should be considered when determining what is considered a "sensitive use".



## **Issue 4 - Navigating the system**

As mentioned elsewhere in this submission, clear guidance is required in relation to the processing of planning permit applications and planning scheme amendments, particularly for land in proximity of high pressure pipelines. This should include planning practice notes, guidelines for Council and the community on the processes.

The current ad hoc process around Safety Management Study under the Pipelines Act 2005 needs to be streamlined with the planning process. Any requirement for a detailed Safety Management Study needs to be undertaken at the planning application stage and be triggered should be contained within the Planning Scheme. Council's experience is that the requirements under the Pipeline Acts is not a transparent process and has resulted in a lot of confusions where by council issued a permit that has to undergo significant amendments as a result of the SMS recommendations. This process, in many instances, has result in significant changes to the original approval and most cases permits that are not implementable. A more transparent process should be provided where the SMS is required upfront and prior to permit being issued to ensure the development is able to proceed without requiring further consent. This process should be reflected in any planning controls for pipelines.

Consideration should also include the potential increased costs and burden of administering such new provisions and additional burdens this may have on Council's administration of the new control.

## **Issue 5 - Pipelines**

### Pipelines within the Growth Areas

In the growth areas, Precinct Structure Plans (PSPs) need to include and recognise the existence of high pressure pipelines. The approved PSPs within Wyndham identify the high pressure pipelines but lack guidance on how to develop abutting land and its interface. Future PSPs can include requirements and guidelines with regards to how much buffer is required as well as the design of that interface.

It is important to ensure that future residents of the area are aware of the existence of the high pressure pipelines. The PSPs should identify the location of these hazard facilities. The PSPs are incorporated documents that the public can access for information.

In addition to better identification of Major Hazard Facilities (i.e. pipeline) in PSPs, the Contract of Sale must include information of this nature as well, within any prescribed buffer or heat flux zone of the Major Hazard Facility.

