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Toll Holdings Ltd  
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Major Hazards Advisory Committee  
C/- Planning Panel Victoria  
Level 5, 1 Spring Street  
Melbourne Vic 3000  
Attention: Mr Nick Wimbush

Dear Mr Wimbush

## Re: SUBMISSION ON ADVISORY COMMITTEE DISCUSSION PAPER – MAJOR HAZARD FACILITIES

The Toll Group welcomes the opportunity to provide this submission to Planning Panels Victoria's Major Hazard Facilities Advisory Committee, in response to the discussion paper issued on 21 December 2015.

Toll Group is Australia's leading provider of transport and logistics services employing approximately 40,000 people across some 1,200 locations in more than 50 countries. Toll's second-to-none capabilities and global reach help provide customers with logistics solutions capable of servicing the most comprehensive global supply chains.

We offer specialised logistics services for the safe and secure movement, handling and storage of dangerous goods. Within the Australian freight task we are involved with the management and movement of dangerous goods on a daily basis with it representing an important component of our business activities.

We currently operate one Major Hazard Facility (MHF) in Victoria and a number of others in NSW and Qld.

As provided in our comments of December 2015 in preparation for the discussion paper, Toll are of the view that the single biggest planning issue that a MHF faces is that of encroachment and that the most appropriate means of addressing this is through the planning overlay process.

Due to time constraints, we have restricted our comments to addressing the specific 'thought starters' contained in the discussion paper. The responses below are a Toll perspective only, based on a limited understanding of the planning schemes process.

### Responses to thought starters:

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?*

The requirements to be met during the permit application stage appear to be effective in ensuring new MHF are appropriately sited such that separation distances are adequate. However, the planning system is not effective in addressing safety of surrounding areas, or the MHF, once the MHF is established. This is evidenced by the number of inappropriate developments that have been permitted within the risk area surrounding some MHF and other hazardous facilities.

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?*

As provided in our previous submission, we believe the application of an overlay to be the most appropriate way to manage this risk. An initial temporary overlay, based on a preliminary hazard analysis, could be applied upon Notification to WorkSafe that a facility has exceeded the relevant MHF threshold, with the confirmed overlay, based on HAZOP study, final hazard analysis and fire safety study, applied on completion of the licensing process.

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?*

Potential new MHF or revisions to safety assessments for existing facilities are required to be notified to the Victorian WorkCover Authority (WorkSafe). The WorkSafe assessment/verification process should include consultation with the relevant planning authority.

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



The planning schemes should not include a definition of MHF but should refer to the definition in the Occupational Health and Safety Act (OHS Act). Rewriting of the definition into the planning schemes will lead to different definitions overtime if the definition in the OHS Act is revised and the planning scheme is not updated.

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 in information given to the local community?*

Yes. Division 10 of the Part 5.2 of the OHS Act requires the operator of a MHF to conduct a Property Protection Assessment. Clarity should be provided that this PPA should also include off site impacts and be an input into the emergency plans and safety case for the site.

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?*

No, the risk areas surrounding a given facility should be determined by the Hazard and Operability Study, Hazard Analysis and Fire Safety Study, or standard risk modelling, for the specific facility. The planning scheme should specify the acceptable risk level for off-site risks, e.g.  $10^{-7}$ . Guidance could be taken from the NSW Government HIPAP 4<sup>1</sup> publication

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

Risk areas, as determined by the relevant safety studies / modelling for the specific facility, should be identified in the planning schemes by the use of a relevant overlay.

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?*

The most appropriate place for risk areas to be identified is in the planning scheme maps for the area. These maps serve as a primary source of information for those seeking use or development for a property.

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

Advice on modelling requirements should be included in the planning schemes with the outcomes of modelling for a specific facility included as overlay for that facility.

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

Toll has insufficient understanding or expertise to comment.

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

Yes.

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?*

This should be a core function of local planning policy.

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

The use of zoning is not a preferred option for the management of land use around a MHF. Zoning appears to be based on property boundaries, which can be quite large for industrial or commercial sites. An overlay has more flexibility and may allow for development to still occur but with conditions to the siting, structure or orientation of buildings.

14. *Could or should SUZ or other zone boundaries extend off and development to occur?*

used from MHF and Schedules

<sup>1</sup> HIPAP 4: Risk Criteria for Land Use Safety Planning - State of New South Wales through the Department of Planning 2011



See 13 above.

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

See 13 above.

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

See 13 above.

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

Yes, a specific hazardous industry overlay is the preferred option for managing development within the identified risk area surrounding a MHF.

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

Yes, see 17 above.

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

Overlays should extend to the area determined by the relevant risk studies / modelling, and to the accepted tolerance level specified in the planning scheme, whether on- or off-site. Schedules to the overlay could be used to specify what is permitted within the overlay area. Should the MHF wish to extend their facility, new risk studies/modelling would determine if the overlay area will be affected and if there are any existing developments within the redefined risk area. If there are, then it should be up to the MHF to reduce the risk to within accepted tolerance levels. ('Agent of Change' principle.) The initial overlay area should not be based on the premise that the MHF may want to extend sometime in the future.

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

This should be an input into the risk studies / modelling that forms part of the safety case for the MHF. This information should be made available via the local planning authority.

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?*

This is not a preferred option. It is our belief that this is not a role of the OHS/DG regulator and that WorkSafe do not have the necessary resources or expertise. Additionally, the use of an appropriate overlay system would negate the need for referral.

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?*

See 21 above.

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?*

Toll do not have sufficient knowledge or expertise to provide comment in this area.

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

See 23 above.

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?*

See 23 above.

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



See 23 above.

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

Yes, perhaps guidance could be taken from the NSW Government Hazardous Industry Advisory Papers (HIPAPS)

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?*

No, as evidenced by the current level of inappropriate developments within the risk areas surrounding existing MHF and other hazardous industry. These inappropriate developments not only increase the safety risk to both the MHF and the new developments, they also impact the viability of the MHF, as the MHF may no longer be able to meet their licence/legislative requirements, and devalue the properties in the risk area.

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.*

The onus should always reside with the 'agent of change'.

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

Any definitions or terminology should align to those used in the relevant Standards used by the MHF in safety studies / modelling. For example, protected places and public places in AS 1940<sup>2</sup>

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

Planning Practice Notes are always useful in providing guidance where the application of a requirement relies on the interpretation or discretion of the assessor.

Should you have any questions or wish to discuss the above comments, please contact the undersigned.

Yours faithfully

**Debra KIRK**

Group Dangerous Goods and Hazardous Substances Manager

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<sup>2</sup> AS 1940-2004 The storage and handling of flammable and combustible liquids, Standards Australia