Mr Nick Wimbush  
Advisory Committee Chair  
Major Hazard Facilities Advisory Committee  
C/- Planning Panels Victoria  
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MELBOURNE VIC 3000

Dear Mr Wimbush

SUBMISSION ON MAJOR HAZARD FACILITIES DISCUSSION PAPER

Thank you for the opportunity to provide a submission in response to the Major Hazard Facilities Discussion Paper.

The Department's attached submission focusses on key considerations regarding high-pressure gas pipelines, commercial ports and buffers around industrial sites. It also draws the Advisory Committee's attention to the Hazelwood Mine Fire Inquiry, which is examining relevant issues.

Senior Department officers are available to discuss the content of the submission with the Advisory Committee upon request.

I look forward to receiving further advice about the Advisory Committee's findings and recommendations, particularly noting the importance of land use planning reforms to support investment, jobs and a healthy and liveable Victoria.

Yours sincerely

Richard Bolt  
Secretary  
23/12/16
MAJOR HAZARD FACILITIES ADVISORY COMMITTEE
Submission from the Department of Economic Development, Jobs, Transport and Resources

The Department’s primary purpose is to create the conditions to sustainably develop the Victorian economy and grow employment. This includes responsibilities relating to management of pipelines, ports, earth resources projects and industrial development. The Department is well positioned to provide input to inform the Major Hazard Facilities Advisory Committee’s deliberations.

The Department considers that planning and maintaining buffer areas to separate hazardous or incompatible land uses is essential to both protect public health and safety and protect peoples’ workplaces and jobs. Strategic land use planning decisions should balance economic, social and environmental factors and the resultant buffer areas or controls must be maintained to provide certainty for the community and businesses.

1. General comments

1.1. Land development around high pressure pipelines

The Department reiterates the importance of applying robust land use planning provisions and risk assessments to protect public safety along the routes for pipelines used to transport natural gas and other petroleum products, including LPG, oil, unprocessed hydrocarbons and liquid fuels. Such pipelines are licensed under the Pipelines Act 2005.

The obligation to assess risks and implement the necessary controls to protect public safety along such pipelines should be on authorities making land use decisions and land developers, as well as on the pipeline licensees.

The Department notes that the detailed approach presented in Energy Safe Victoria’s submission to the Major Hazard Facilities Advisory Committee provides guidance on the necessary controls.

1.2. Planning considerations around coal mines

The Committee’s attention is drawn to the Hazelwood Mine Fire Inquiry, which has been re-opened to examine issues resulting from the Hazelwood mine fire in 2014 and affected communities in the Latrobe Valley.

The inquiry is currently examining factors relevant to the hazards associated with the coal mines in the Latrobe Valley, including smoke related issues for public health, ground stability and associated issues for infrastructure and people.

While coal mines are not classified as Major Hazard Facilities, the Committee should be mindful of the Inquiry’s Terms of Reference and proceedings to date, which are published on the Inquiry website (http://hazelwoodinquiry.vic.gov.au), and the subsequent Government Response.

The Department also notes that current planning mechanisms and controls in place for the Latrobe Valley coal mines. These mines operate within a special use planning zone and with a one kilometre buffer designed to prevent encroachment and protecting the community and amenity.
The Department’s Earth Resources Regulation Branch is also implementing new risk based work plans for each coal mine.

2. **General comments on commercial ports (including Major Hazard Facilities)**

The freight and logistics sector contributes around $20 billion to Victoria’s gross state product, representing around eight per cent of the Victorian economy. The efficiency of the sector’s operations is a key driver of productivity throughout the state’s broader economy.

Ports, as key gateways, are an integral element of Victoria’s freight and logistics system. Efficient port operations and linkages to transport and distribution networks allow Victorian businesses to trade freely and efficiently in the local and global marketplace.

The Victorian Government oversees Victoria’s commercial ports network, and adjoining transport corridors. These ports play a vital role in facilitating the flow of goods in and out of the state. It is Government’s responsibility to ensure the future capacity and efficient operation of this network to enable ongoing economic growth.

Victoria has four commercial ports, of which three contain registered Major Hazard Facilities. These include:

- Port of Hastings (which services Esso Australia and United Petroleum)
- Port of Melbourne (incorporates Terminals and Stothaven at Coode Island, and Mobil at Gellibrand Pier)
- Geelong Port (which services Viva Energy and Terminals)

Under the Victoria Planning Provisions (VPP) the following mechanisms are in place to protect Victoria's commercial ports from inappropriate development, including:

- the *State Planning Policy Framework* to support the development of ports and manage their environs;
- *Ministerial Direction No. 14 – Port Environments* to ensure that any planning scheme amendment has regard to protecting land surrounding commercial ports from encroachment or intersection of inappropriate uses; and
- the application of the *Port Zone* to streamline and provide consistent planning provisions for the ports of Hastings, Geelong and Portland; and
- *an Environmental Significance Overlay* applied to discrete areas within port environs that are likely to be affected by port operations.

As the state’s liquid bulk demands increase over time, Victoria’s commercial ports face the challenge of balancing planning to efficiently meet the state’s liquid bulk demands within Victoria’s port precincts, pipelines and transport connections, whilst maintaining community amenity, environmental standards and continuing to support economic development of the state.

Effective land use planning is necessary to continue to protect our Major Hazard Facilities within our port environs. This includes ensuring protections from encroachment of potentially incompatible developments over time, taking into consideration forecast population growth and bulk liquid needs. Major Hazard Facilities at Victorian ports may require expansion at their current locations to accommodate for future growth. For this reason, DEDJTR welcomes the strengthening of planning controls around Major Hazard Facilities to ensure that the land and waters surrounding commercial ports are appropriately developed.
3. **Specific comments on Discussion Paper**

The Department notes that the Committee's Terms of Reference (5.b.) extend to making recommendations on principles for applying land use buffers to land use activities other than major hazard facilities. The following comments are offered within this context in response to the thought starters in the Discussion Paper with respect to other earth resources projects, such as quarries, and industrial areas generally.

The application of a strategic resource and land use planning approach is necessary to prevent the sterilisation of extractive resources and land for industrial development of strategic importance to the State's economy and jobs. It is also necessary to prevent the encroachment of non-compatible land uses and resultant public amenity issues.

The refinement of statutory tools that assist in identifying and triggering an assessment of 'reverse buffer' issues as identified in the Discussion Paper should assist in achieving better protection for quarries and industrial activity. With that in mind, our attention turns to the 'thought starters' that refer to the potential planning provisions subject to the Committee's consideration.

3.1. **Zones (thought starters 13-16)**

For greenfield sites, a zone regime and/or Precinct Structure Plan should be able to adequately buffer sensitive uses from future industrial activity, including potential hazardous activities. A Special Purpose Zone, such as the Special Use Zone or Urban Growth Zone, has benefits to other zones to regulate use and development in surrounding areas due to its ability to tailor schedules to use either discretionary or prohibitive trigger mechanisms depending on the level of risk to those areas. The difficulty arises when urbanised areas in the affected buffer area are already zoned to allow sensitive uses to occur. An overlay has benefits in these circumstances.

3.2. **Overlays (thought starters 17-19)**

As outlined in the Discussion Paper, the current overlay regime is generally confined to 'development' and not 'use of land' so a new overlay similar to, or an amalgamation of, the Port Environs Overlay and the Airport Environs Overlay has merit. Whether it is a new or modified zone or overlay that is ultimately recommended, the provisions should identify that the land is within a buffer area and, as a consequence, it may have restrictions on use, density and built form to ensure that the integrity of the buffers are maintained.

Other jurisdictions, such as Brisbane City Council, provide examples of how an 'Industrial Amenity Overlay' and accompanying code can be used to require sensitive uses to respect the specified distances from core industrial areas (Brisbane City Plan 2014). This overlay is particularly relevant to this discussion because it differentiates industrial amenity investigation areas from industrial hazard investigation areas.

3.3. **Clause 52.10 (thought starters 23-28)**

As identified in the Discussion Paper, the zone and overlays should be considered in conjunction with other mechanisms. The Discussion Paper raises the issue of reviewing Clause 52.10 and the definition of sensitive uses.

The Department supports a review of Clause 52.10 because, not only does it form part of a suite of controls to address the amenity issue, it also requires updating to reflect modernised
manufacturing practices, to clarify its purpose and to maintain consistency with the EPA’s separation distance guidelines, as revised in 2013.

3.4. Agent of change (thought starter 29)

The agent of change principle is supported because just as new industrial users are required by the Victoria Planning Provisions (VPP) to respect existing sensitive uses, the encroachment of sensitive uses within close proximity to existing industrial activity should also recognise that in an environment where off-site impacts are present, a new use must respect the buffer of the established use to avoid future conflict.

3.5. Sensitive uses (thought starter 30)

The review of the ‘Recommended separation distances for industrial residual air emissions’ undertaken by the EPA in 2012/13 proposed an extension to its sensitive use definition in the exhibited publication dated October 2012. In that draft publication, it proposed that the definition include ‘...other similar uses involving the presence of people for extended periods, except in the course of their employment or for recreation’. This broader definition was ultimately not included in the final March 2013 publication. However, it did prove useful in acknowledging that certain uses not traditionally considered ‘sensitive’ do have impacts if these are located within close proximity to industrial activity.

The Department encourages further refinement of the VPP definition in that context. However, it also supports the existing principle in Clause 52.10 that the zones (with the exception of particular uses – ie education centre or hospital) should determine the permit trigger rather than the particular use.

This is due to the many examples of historical anomalies such as caretaker residences that have been converted into dwellings within industrial zones. To identify every use within a 1km buffer could prove a cumbersome and inefficient way for responsible authorities to identify permit triggers whereas a zone is easily identifiable in a planning scheme map.

3.6. Putting it into practice (thought starter 31)

The combination of planning provisions and guidance material is essential to ensuring that users of the system understand and can put the provisions into practice in a way that simplifies the process rather than makes it more complex. This may include, but is not limited to, practice notes, a Ministerial Direction and other educational material.

3.7. Closing Note

The Department would be pleased to discuss with the Advisory Committee the refinement of the planning provisions to capture the issues raised in this submission.