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), 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.
   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 for each of Victoria’s 40 registered MHFs and principles 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.

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.

Background

7. The Victorian Government is committed to conducting an inquiry into regulations for neighbourhoods near major hazard facilities to preserve 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.

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.

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 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.

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.

Submissions are public documents

19. The Advisory Committee must retain a library of any written submissions or other supporting documentation provided directly to it until a decision has been made on its report or five years has passed from the time of its appointment.

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

Outputs

21. 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 who made submissions considered by the Advisory Committee.
   e. A list of persons consulted or heard.

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

23. 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.

24. The Advisory Committee is required to commence its hearings and workshops within 30 business days from the release of the Discussion Paper.

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

Fee

26. 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.

27. 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: 24/9/15

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