09 February 2016

Department of Environment, Land, Water and Planning
Planning Panels Victoria
1 Spring St
Melbourne VIC 3000

Dear Sir/Madam,

RE: Discussion Paper of the Major Hazard Facilities Advisory Committee

Thank you for the opportunity to provide comment on the issues raised in the Discussion Paper of the Major Hazard Facilities Advisory Committee, dated 21 December 2015.

Coliban Water does not operate any Major Hazard Facilities (MHFs), nor are there any such facilities located within our region, at least not that we are aware of. Our interest in the Committee's discussion paper is focused on the application of EPA Victoria Publication 1518 – *Recommended separation distance for Industrial residual air emissions* and the Victorian Planning Provisions (VPP) to such facilities, and the potential for such facilities to adversely impact on amenity.

Coliban Water understands that the terms of reference require a report detailing *how the land use planning system can assist in managing risks and any adverse impacts and principles for applying land use buffers more broadly to other uses with adverse amenity potential.*

Coliban Water is a determining referral authority under Section 55 of the *Planning and Environment Act 1987* and Clause 66.02-5 Special water supply catchment of the VPP. In relation to the operation of important community infrastructure, such as Water Reclamation Plants (WRP) for the treatment of sewage, Coliban Water would like to secure the same determining referral authority status.
The VPP and associated municipal planning schemes are the first point of call for private land owners to consider potential effects from neighbouring facilities. A shift in planning philosophy to accept a role for the use of Overlays in planning schemes, as a means of providing community awareness of a specific, or potential, environmental hazard, without the requirement to trigger a specific planning action or outcome, would provide greater transparency for facilities such as WRPs or MHFs.

It is also noted that a definition of "normal operations" is not provided in State Environment Protection Policy (Air Quality Management (SEPP (AQM))), but that EPA Victoria Publication 1518 describes the policy of defining buffer distances around WRPs, industries and waste treatment facilities based on the avoidance of odour nuisance during upset conditions. The absence of a definition for normal operations, and, therefore, what is then considered upset conditions, is a significant point of debate in relation to the impact and application of land use planning buffers. In order to develop sound industry strategy, policy and regulatory guidelines in relation to buffer distances it is critical that these two concepts are clearly defined. Having clear definitions for these concepts would also provide greater clarity to the general public.

We hope our comments below can contribute positively to the issues raised in the discussion paper. Should you have any queries, please contact Barry Floyd on (03) 4408 5411.

Yours faithfully

David Sheehan
General Manager Water Quality Performance & Regulation
Q12. 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?

Yes – stronger strategic planning, based on the potential negative effects from facilities, and the subsequent inclusion of this strategic planning in Local Planning Policy and Overlays, would provide a significant opportunity to potential owners of surrounding land to make informed decisions on future potential uses of their land. This would lower the likelihood of speculative development occurring and then passing of the problem of inadequate buffer distances, or poor planning outcomes, onto new residents or owners of the land, local councils or the operators of MHFs.

Q20. Is notification of the risk status of land in proximity to a MHF important and how might it be achieved?

Yes – As discussed above, the use of Overlays as form of notification can provide for this outcome. The realigning of planning considerations, with respect to the view that the existence an Overlay must trigger some form of planning action, must be altered.

Q23. 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?

Q24. If so, what should such a review seek?

Yes – a review of Clause 52.10 should seek to provide greater clarity regarding the importance of facilities to operate, and this has the potential to impact on surrounding land use. Any review should seek to elevate the importance of identified industry and place significantly greater weight on agents of change for the responsibility to avoid conflicting land uses.

Q25. Should the EPA IRAE Guidelines be better articulated in the VPP to accord greater weight to separation distances for industry or sensitive use expansion?

Yes.

Q26. Are the separation distances/ buffer distances in Clause 52.10 and the IRAE Guidelines clearly justified and appropriate?

Q27. Might a clearer articulation in the planning system of principles around the need for buffers be useful?

Yes – this, however, is in respect to those who are operating the facilities; the greater challenge is to provide the strategic justification to the public in a cost effective and transparent manner. Being able to justify buffer distances due to a risk assessment
determination of a potential impact (upset conditions) is a risk in itself. The proper application and expression of the precautionary principle is required in the VPP and Local Planning Policy.

Q28. 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 – This response is evident through need to pursue objections through the Victorian Civil and Administrative Tribunal (VCAT), and the need to provide strong legal representation and expert evidence to Panels Hearing, at a significant cost to the community.

Q29. 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.

Yes – as discussed in response to Question 24.

Q30. Should sensitive uses be formally defined in the planning scheme?

Yes.