

Planning for Ports and their Environs

This advisory note provides an overview of changes made to the *Victoria Planning Provisions* (VPP) and relevant planning schemes through Amendments VC94 and VC112 to protect the ongoing operation of Victoria's commercial trading ports. It provides guidance and information to applicants and responsible authorities about preparing and assessing a permit application on port land and its environs.

The Minister for Planning has introduced the following measures:

- **Ministerial Direction No. 14 – Ports Environs** to ensure that any planning scheme amendment has regard to protecting land surrounding the Ports of Melbourne, Hastings, Geelong and Portland from encroachment or intersection of inappropriate uses
- strengthened **State Planning Policy (VC94)** to protect the ports and better manage their environs
- a new **Port Zone (VC112)** to streamline and provide consistent planning provisions for the Ports of Hastings, Geelong and Portland

- an **Environmental Significance Overlay** applied to discrete areas within port environs that are likely to be affected by port operations.

Ministerial Direction No. 14 – Ports Environs

Industrial zones have traditionally provided an effective buffer between port operations and sensitive uses. Over time some of these industrial areas have been rezoned, allowing sensitive uses around the ports.

Ministerial Direction No. 14 – Ports Environs was introduced on 31 May 2012. Its purpose is to ensure that an amendment to a planning scheme will not introduce a sensitive use or will not intensify existing sensitive uses in the areas designated as port environs, if the use prejudices the operation of the port.

A planning authority should ensure that the curfew free operations and future development of the port, identified in the relevant Port Development Strategy, will not be prejudiced.

State Planning Policy Framework

On 4 July 2012, VC94 amended Clause 18.03 of the State Planning Policy Framework to strengthen the objectives and strategies to support the development of ports and manage their environs. State planning policy focuses on:

- supporting the ongoing commercial viability of all commercial trading ports by ensuring curfew free operations
- managing land in the port environs so that use and development are compatible with port operations
- maintaining access to efficient freight and transport networks, including road, rail and waterways
- containing adverse risk and amenity issues within land set aside for a port
- protecting commercial trading ports from the encroachment of sensitive or incompatible uses in the port environs.

Port Zone

The Port Zone was introduced on 2 October 2014 through Amendment VC112 to provide streamlined and consistent planning provisions across three of Victoria's commercial trading ports and their waters.

How has the Port Zone been applied?

The Port Zone replaces a number of port-related schedules to the Special Use Zone in the Glenelg, Greater Geelong and Mornington Peninsula Planning Schemes where the land is owned and operated by a port manager.

In some instances, the Port Zone has been applied to port waters (where those waters are currently zoned within a planning scheme) used for the movement, loading, unloading, navigation aids, maintenance and/or provisioning of ships and channels.

The Victorian State Government has announced plans to lease the Port of Melbourne and develop the Port of Hastings as Victoria's second container port. Given these ongoing investigations, the Port Zone has not been applied to the Port of Melbourne and has been applied to a limited area at the Port of Hastings. Further consideration will be given to the application of the Port Zone at both ports, on completion of these investigations.

What are the main features of the Port Zone?

The primary objective of the Port Zone is to facilitate the use and development of land for port-related purposes.

Uses that are normal to a port, such as a wharf, transport terminal, warehouse, industry, container storage and other storage and handling facilities do not require a planning permit provided they are 'associated with port operations' and associated conditions are met including the buffer requirements of Clause 52.10 of the VPP.

Use and development is required to be consistent with the relevant Port Development Strategy and, in particular, port precincts.

Considering applications under the Port Zone

Where a planning permit is required, a responsible authority is required to consider a range of matters relating to but not limited to:

- consistency and relationship with an existing Port Development Strategy and its precincts
- potential for adverse amenity impacts on land adjacent to the port
- visual and built form impacts of proposed buildings and works
- ability to meet and conform to required threshold distances outlined in Clause 52.10 of the VPP.

Maintaining appropriate threshold distances and preventing encroachment of sensitive use and development is important to the long-term sustainable development of Victoria's ports.

Advice should be sought from the Environment Protection Authority on the application of separation distances, and where relevant, Worksafe Victoria regarding major hazard facilities.

Environmental Significance Overlay – Port Environs

In mid 2012, the Environmental Significance Overlay – Port Environs was applied to discrete areas within a number of planning schemes surrounding the ports to manage potential conflicts between land in the port environs and the adjoining port land.

The overlay requires a permit to construct a building or construct or carry out works for:

- accommodation
- child care centre
- education centre
- place of assembly
- office.

When considering a permit application, a responsible authority will need to determine:

- if a proposed development is appropriate given its proximity to the port and whether it is likely to prejudice its operation and long term development
- if a proposed development has the potential to expose people unnecessarily to any off-site impacts associated with the operation of the port
- if a proposal will increase the number of people affected by off-site impacts arising from port operations
- siting and design aspects and whether appropriate measures can be taken to minimise amenity impacts.

Amenity impacts that can occur in port environs include noise, light spill, vibration, dust and odours. Measures such as draught and acoustic sealing, venting and window orientation should be considered and employed on a case-by-case basis to manage amenity impacts within a building.

Minor buildings and works such as the construction of non-habitable structures, for example, garages or sheds, are exempt under the overlay. Where building extensions are proposed that require a planning permit it is not the intention of the overlay to trigger onerous requirements.

The views of the relevant port manager, Environment Protection Authority and/or Victorian Worksafe Authority (VWA) may be obtained before deciding an application.

FREQUENTLY ASKED QUESTIONS

What is a port?

The *Port Management Act 1995* (the Act) identifies Victoria's four commercial trading ports: Melbourne, Hastings, Geelong and Portland.

The area covered by a port includes both land and water. Port land and waters are formally declared by an Order in Council under section 5(1) or 5(2) of the Act.

What are port environs?

For the purposes of the planning scheme port environs are areas identified by Ministerial Direction No. 14 and the Environmental Significance Overlay – Port Environs.

These areas contain a mix of land uses. Some act to buffer the port's activities while others contain sensitive uses which can impact on port operations.

What is a use that is 'associated with port operations'?

There is a range of uses associated with port operations. These include, but are not restricted to:

- processes which add value or transform cargo prior or subsequent to shipment
- storage of cargo prior or subsequent to shipment
- ancillary activities such as container fumigation, cleaning, painting, repair, servicing, storage and repacking of containers
- administration relating to the business of the port, for example, offices used by port managers, shipping, customs, freight agents and quarantine brokers
- industries relating to the servicing and maintenance of marine vessels
- car parking and amenities buildings.

What is a Port Development Strategy?

A port manager is required to prepare a Port Development Strategy under the Act. Port Development Strategies are referenced in the State Planning Policy Framework and are required to be considered when planning for the port and its environs.

A Port Development Strategy is essentially a port's master plan with the Act requiring each port manager to prepare a plan every four years (section 91K).

A Port Development Strategy should include current and projected land use requirements, including transitional land uses. It is designed to protect a port from constraints on efficient operations and mitigate adverse impacts of port operations on adjacent uses.

A port manager is required to prepare a safety and environmental management plan under the Act. Elements of this plan are normally included in the Port Development Strategy.

A responsible authority is required to consider the relevant Port Development Strategy under the Port Zone when an application for a planning permit is made.

A Port Development Strategy includes designated precincts for areas of a port with different purposes. Some precincts are intended to confine particular port uses and should provide direction to a responsible authority when deciding a relevant application.

What are sensitive uses in the port environs?

Sensitive uses include accommodation, childcare facilities, preschool centre or a primary school. Some recreational, commercial and office uses can also be considered sensitive particularly in areas close to a major hazard facility.

It is important that careful consideration be given to proposals that introduce new sensitive uses and/or intensify existing sensitive uses near the ports.

A caretaker's house is strongly discouraged in industrial and business areas around the ports in the interests of protecting ports from encroachment by non-industrial uses which may prejudice the land for future industrial requirements.

Where permitted, an application for a caretaker's house should demonstrate that it is a necessary ancillary use to an existing or proposed use, building, operation or place. Such application should also include appropriate design measures to manage vibration, light spill and glare, noise, airborne emissions and provide for safety and emergency evacuation to minimise potential amenity conflicts and threat to human life.

What is a safety and environmental management plan?

All port authorities are required to prepare a safety and environmental management plan under the Act.

These plans facilitate the development, maintenance, implementation and monitoring of processes and systems to ensure compliance with various safety and environmental obligations. They apply to the operation of the port, for example, under the *Dangerous Goods Act 1985*, or a waste discharge licence, works approval or notice given under the *Environment Protection Act 1970*.

Compliance with a direction or licence provided under the above allows exemption from the need to apply for a buildings and works permit.

What is a major hazard facility?

A major hazard facility (MHF) is an industrial site that stores, handles or processes large quantities of hazardous material. These facilities have the potential to create incidents that are broadly described as 'low probability–high consequence' risks for employees and adjoining areas. An MHF is regulated by occupational health and safety legislation, including a WorkSafe licence based on a safety case, and a works approval from the Environment Protection Authority.

MHFs operate at the Ports of Melbourne, Geelong and Hastings. These facilities are generally transport depots for the storage of chemical and petroleum products. The precincts in which they are located within the ports are to an extent identified in Port Development Strategies.

MHFs are subject to planning controls aimed at ensuring that adequate separation distances between surrounding land uses are provided and maintained. Where possible, sensitive land uses should be avoided within these separation distances to protect the operation of these facilities and avoid potential unacceptable health or safety risks.

VWA has made available an information sheet, *Land use planning near a major hazard facility 2010* to assist responsible authorities when assessing planning permit applications in areas surrounding an MHF.

The information sheet discusses the types of risk, and identifies risk areas around an MHF. VWA guidance material can assist where planning provisions require consideration of risk to health arising from port operations. It can also assist with Ministerial Direction No. 14 where a planning scheme amendment requires consideration of the societal risk and cumulative effects of potential developments.

While VWA is not a referral authority for permit applications or planning scheme amendments near an MHF, the agency can provide general advice to planning or responsible authorities.

A copy of *Land use planning near a major hazard facility 2010* can be obtained from the VWA website: <http://www.worksafe.vic.gov.au/forms-and-publications/forms-and-publications/land-use-planning-near-a-major-hazard-facility>

The WorkSafe Advisory Service can be contacted on 1800 136 089.

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