

# Planning for amenity, health and safety buffers

Consultation report –  
Buffer Area Overlay



## Acknowledgment

We acknowledge and respect Victorian Traditional Owners as the original custodians of Victoria's land and waters, their unique ability to care for Country and deep spiritual connection to it. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

We are committed to genuinely partner, and meaningfully engage, with Victoria's Traditional Owners and Aboriginal communities to support the protection of Country, the maintenance of spiritual and cultural practices and their broader aspirations in the 21st century and beyond.



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# Introduction

Based on earlier feedback, the Department of Environment, Land, Water and Planning (DELWP) developed a draft Buffer Area Overlay (BAO) to address encroachment of incompatible uses. The draft overlay was designed to be used to identify areas where there is potential for off-site impacts on safety or human health from industry, warehouse or other uses, and to ensure that use and development within buffer areas is compatible with those impacts. Draft documents and further background can be found on the Engage Victoria website at: <https://engage.vic.gov.au/planning-amenity-health-and-safety-buffers>.

## Public consultation

DELWP invited feedback on the draft BAO and accompanying guidance through an online survey on the Engage Victoria website. The survey was open from 16 September 2020 until 14 October 2020, with some late submissions also accepted.

In total, 75 submissions were received from councils, industry, other organisations and individuals (see Figure 1).

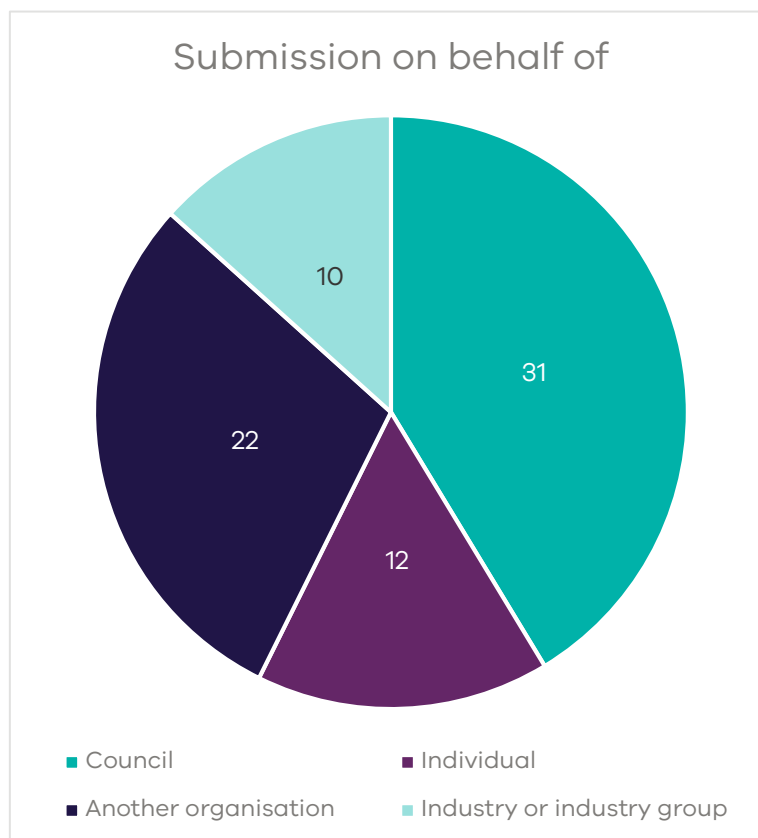


Figure 1



# Draft Buffer Area Overlay

A draft BAO provision was provided on the Engage Victoria website. Participants were asked to indicate whether they agreed or disagreed with the following statements:

- The purpose statement in the draft overlay is clear
- The ability to tailor the overlay schedule based on identified risks will enable good land use planning outcomes
- It is clear why the scope of the draft overlay only covers human health and safety impacts
- The overlay should be able to control use, as well as development, where justified
- The draft Buffer Area Overlay would be a more effective tool than the Environmental Significance Overlay to manage encroachment within buffers.

Participants could also provide additional comments about the draft BAO. This section outlines a summary of feedback received, organised by emerging key themes.

## Purpose statement

Most participants agreed that the draft BAO purpose statement was clear (see Figure 2). A number of submissions suggested clarification of the purpose statement, such as by including reference to infrastructure and amenity impacts. Others suggested that the purpose should focus on preventing incompatible use and development rather than ensuring that use and development is compatible.

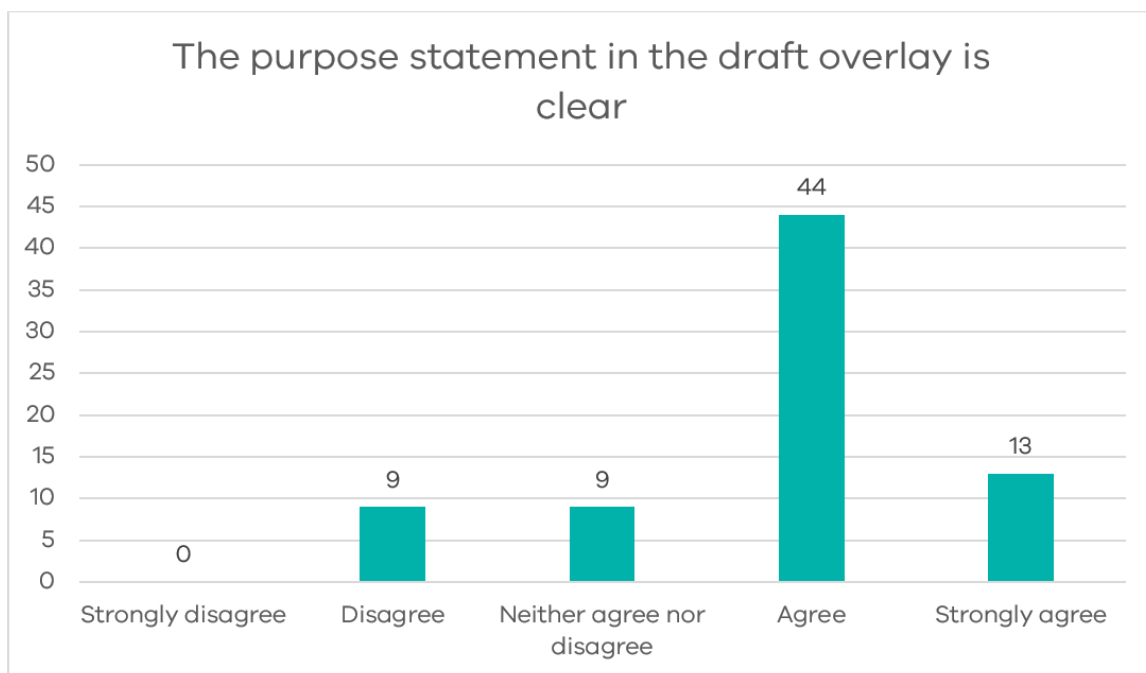


Figure 2

## Operation

Operation of the BAO was frequently discussed in submissions. There was strong support for the ability to tailor the overlay schedule based on identified risks to enable good land use planning outcomes (see Figure 3). The ability to use different schedules to address different impacts was also supported.

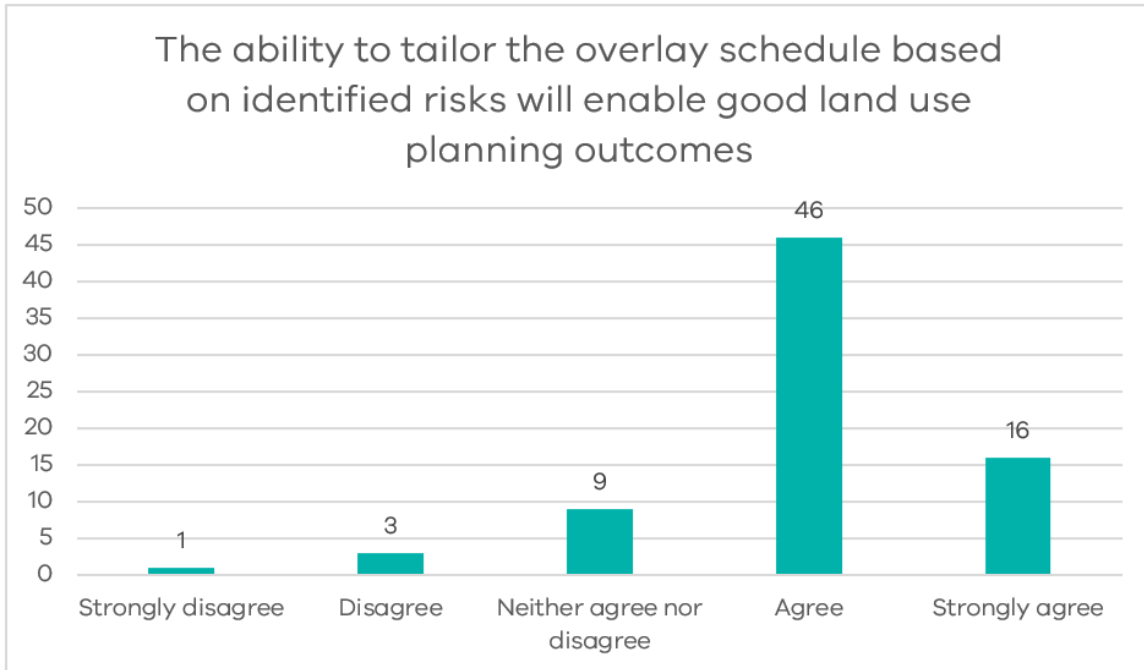


Figure 3

Overall there was also strong support for the ability of the overlay to control land use, where justified (see Figure 4) as a critical element of the tool. Some submissions advocated for mandatory referral requirements and notice and review requirements without exemption.

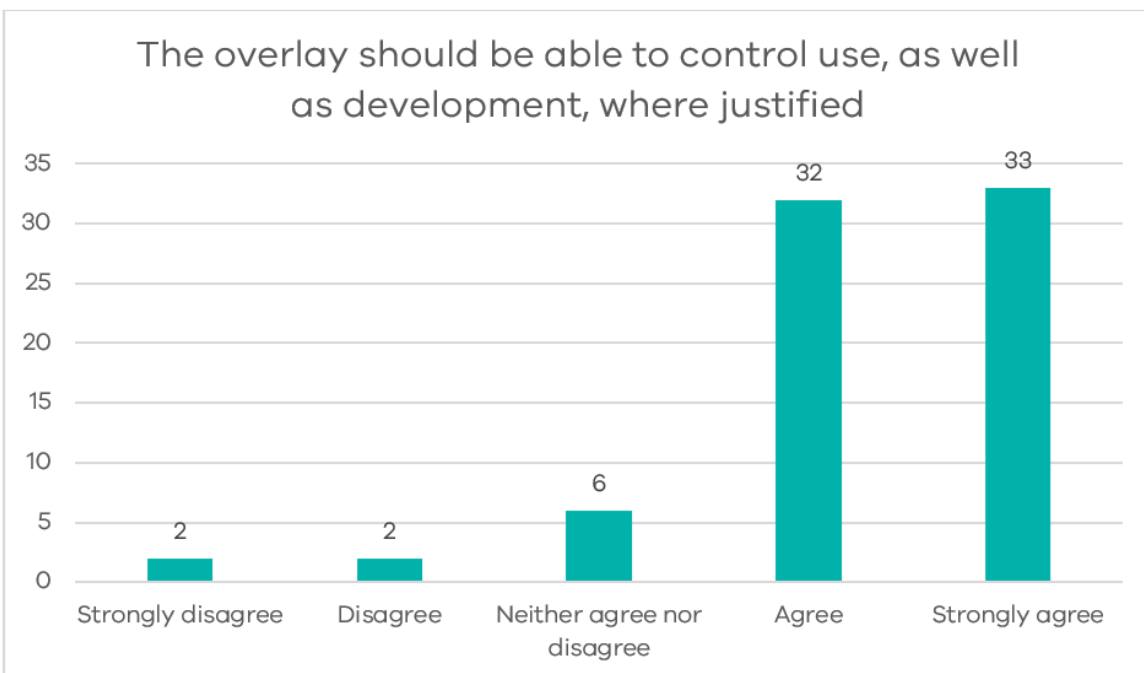


Figure 4

## Scope of impacts

While many participants understood why the scope of the draft overlay was limited to human health and safety impacts (see Figure 5), the scope of impacts was a major issue raised in submissions. Many participants called for amenity impacts, in particular significant amenity impacts, to also be covered by the scope of the BAO. There were concerns that a number of industries with off-site impacts would not qualify to use the BAO due to the narrower scope.

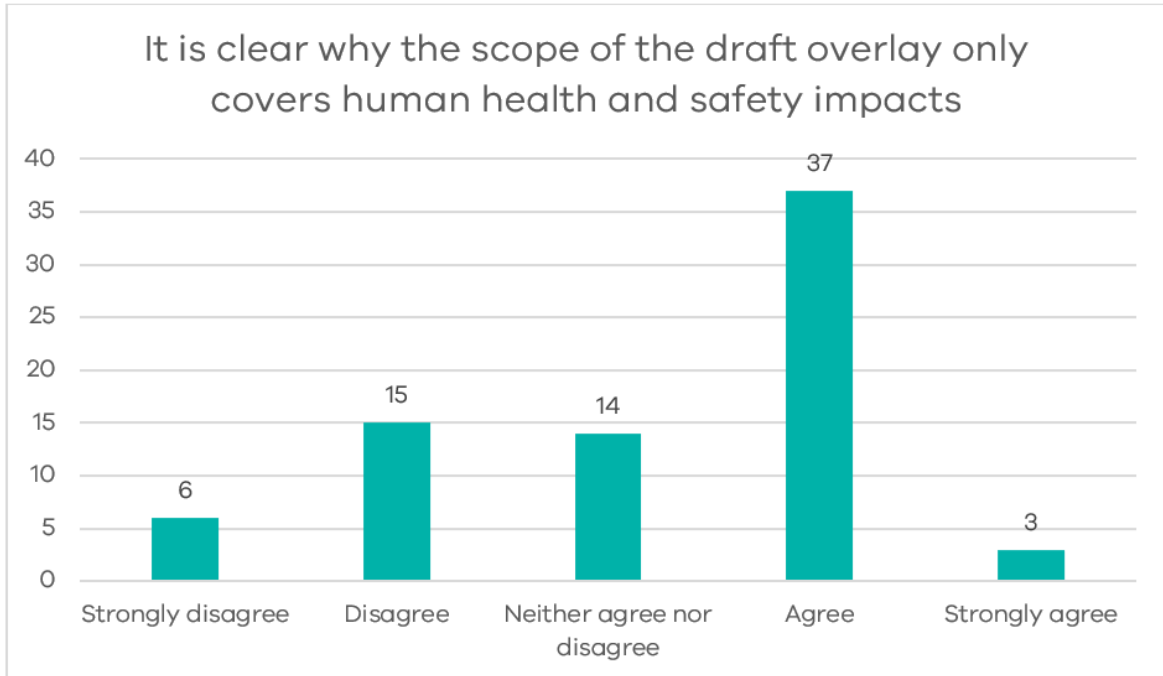


Figure 5

## The Environmental Significance Overlay (ESO)

Most participants agreed or strongly agreed that the draft BAO would be more effective than the ESO to manage encroachment within buffers (see Figure 6). This was primarily attributed to the ability for the BAO to control use.

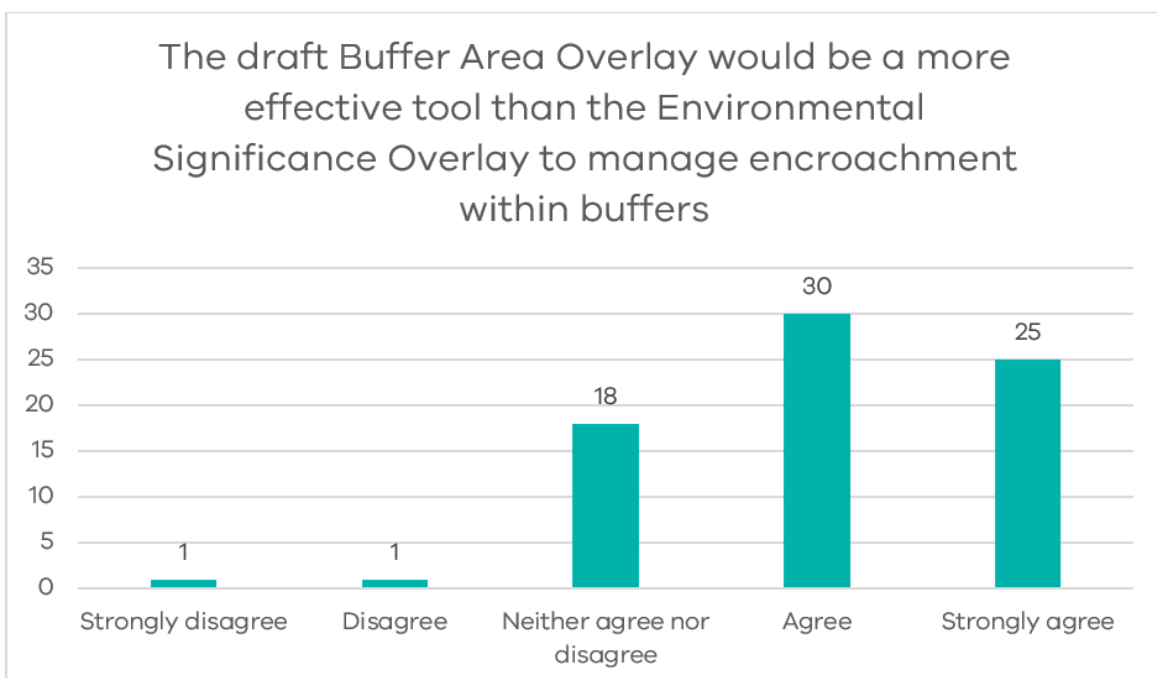


Figure 6

# Draft BAO guidance and required information

Draft guidance and required information accompanying the draft BAO was also provided on the Engage Victoria website for comment. Participants were asked to indicate whether they agreed or disagreed with the following statements:

- The guidance is clear about when the draft overlay can be used
- The distinction between amenity impacts and human health impacts for the purposes of applying the draft overlay is clear
- The guidance is clear about how to prepare a schedule to the draft overlay
- It is clear what information must be submitted with a proposal to apply the Buffer Area Overlay
- The information that must be submitted with a proposal to apply the draft overlay will ensure that it is applied appropriately
- The information that must be submitted with a proposal to apply the draft overlay is reasonable

Participants could also provide additional comments about the draft guidance. This section outlines a summary of feedback received, organised by emerging key themes.

## Eligibility for use of the BAO

Many participants agreed that the draft guidance about when to use the draft BAO was clear (see Figure 7). However, many participants expressed that the draft BAO seemed to cater to a limited number of industries. Some participants requested that a list of eligible industries be developed. A number of submissions suggested that the eligibility criteria would be difficult to meet in practice. Others supported limiting the application of the BAO to higher impact uses to avoid overuse.

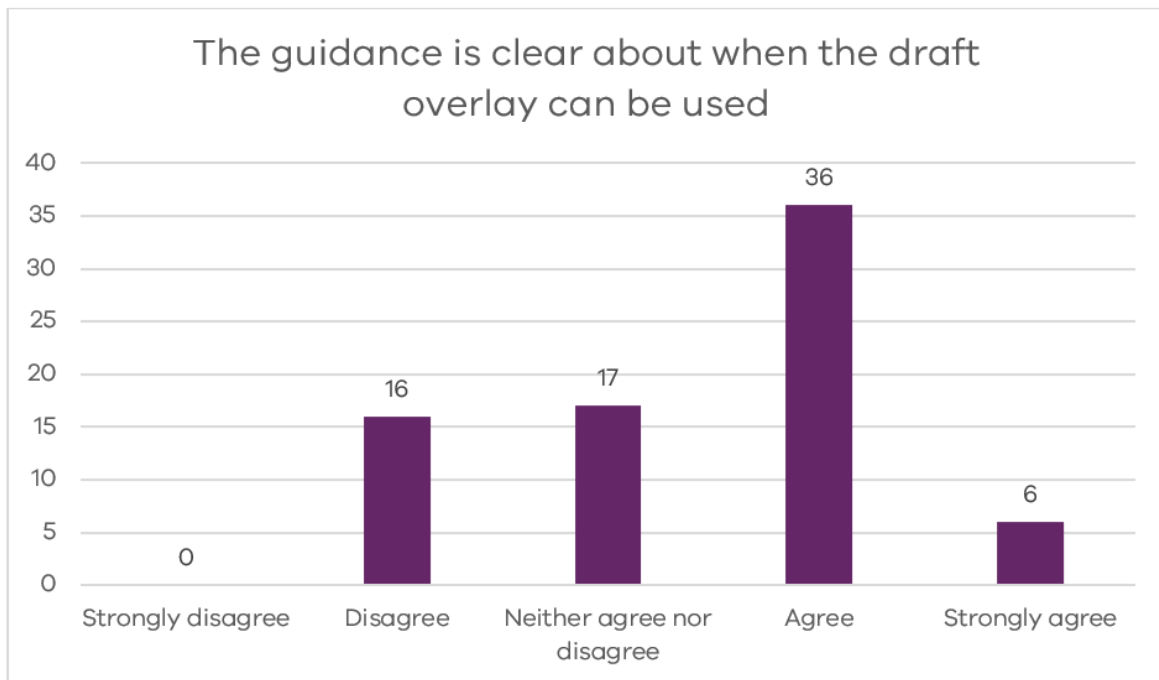


Figure 7

## Distinction between amenity and human health impacts

Many participants agreed that the distinction between amenity impacts and human health impacts for the purposes of applying the draft overlay was clear (see Figure 8). However, several participants felt that guidance about impacts was not sufficient and that it remained difficult to determine for what scale of impacts the BAO could be applied. Some submissions argued that lack of clarity about impacts could make it hard to justify application of the BAO, even for more significant infrastructure assets.

## BAO amendment process

Many participants commented on the draft process set out to prepare a planning scheme amendment to apply the BAO. Most participants agreed that the draft guidance was clear about how to prepare a schedule to the draft overlay (see Figure 9). Greater clarity was requested in submissions about roles and responsibilities across the amendment process. This focused on the interaction between councils, operators and relevant authorities including EPA. Potential resource implications for planning authorities were also raised.

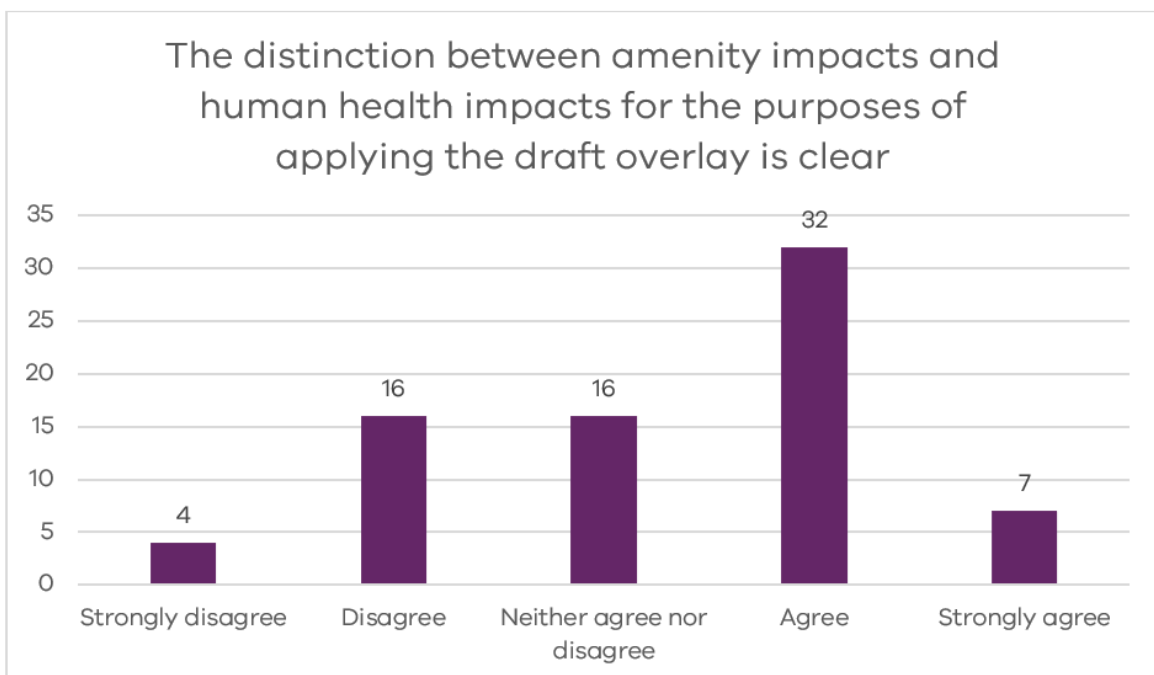


Figure 8



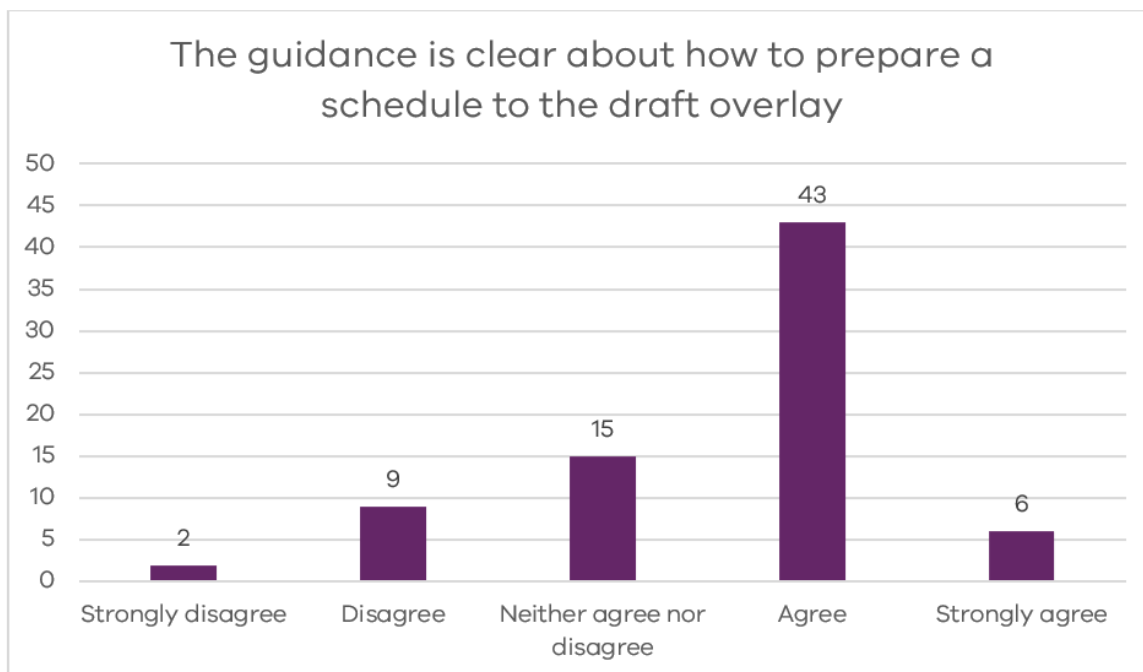


Figure 9

### Required information to apply the BAO

Most participants agreed that the proposed information required to be submitted with a proposal to apply the draft BAO was clear (see Figure 10). Some participants requested further guidance about who is responsible to prepare the information, while others raised uncertainty about the meaning of general compliance. Additional guidance on consultation with EPA was suggested to clarify how assessments should be undertaken.

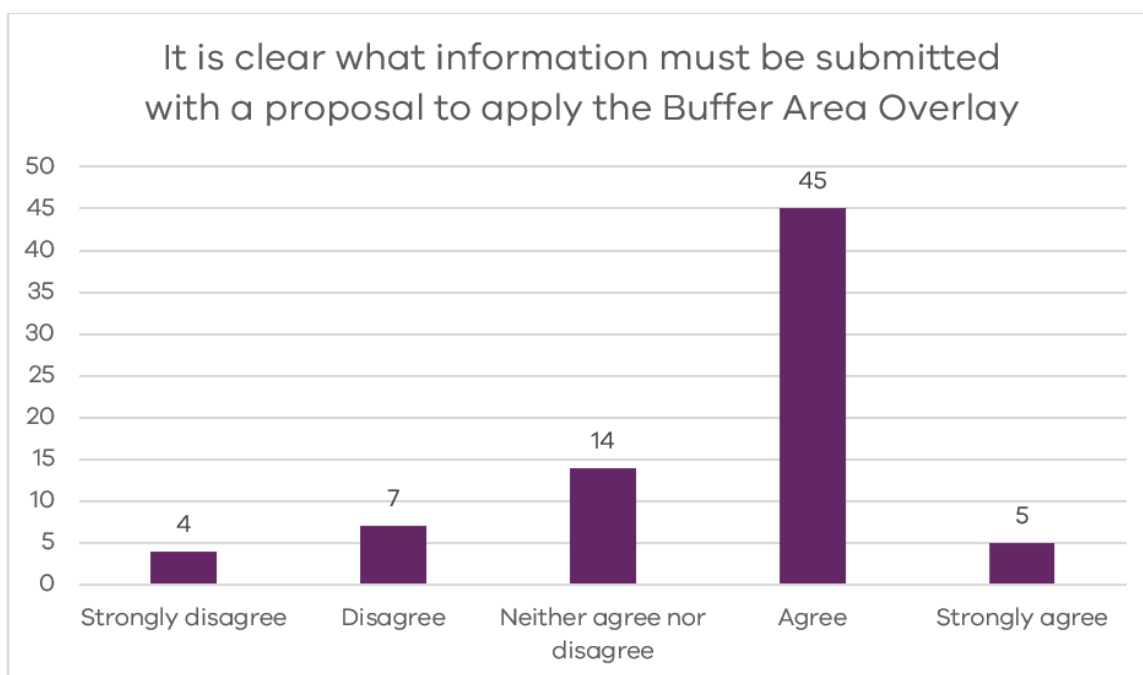
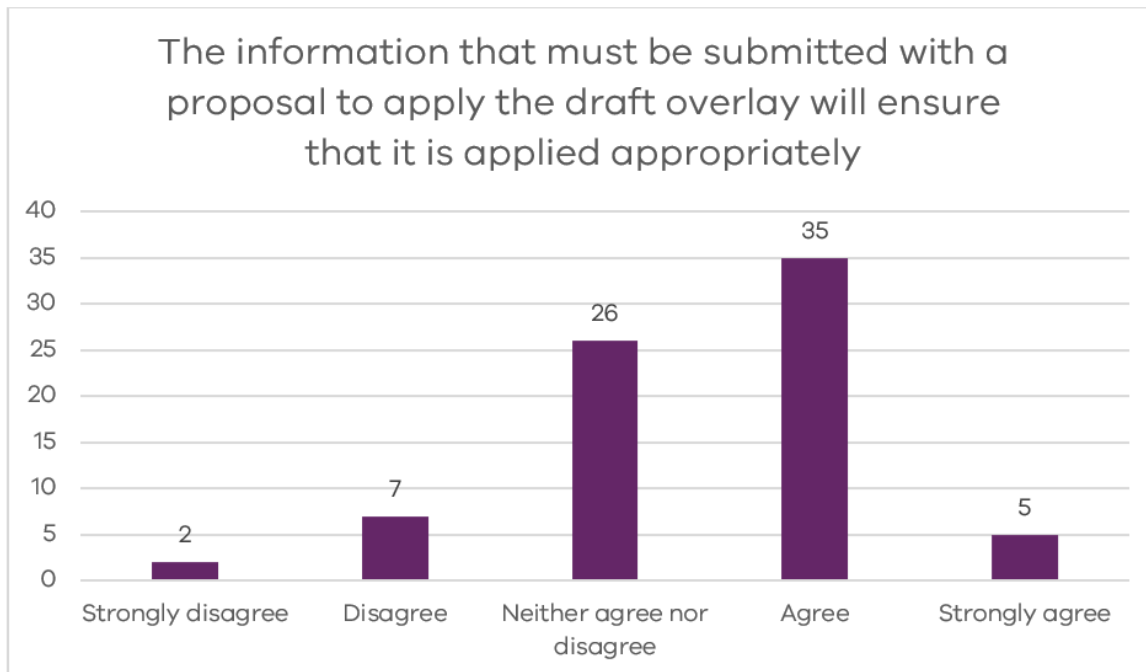


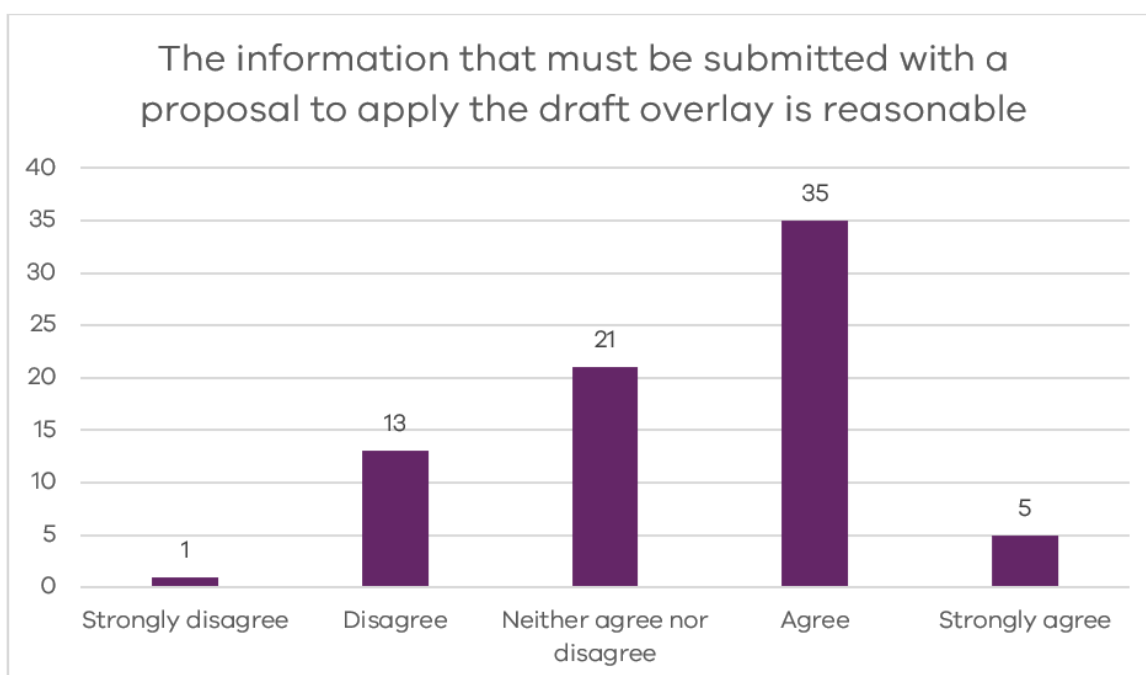
Figure 10

The majority of participants agreed, or neither agreed nor disagreed, that the proposed required information would ensure that the draft BAO was applied appropriately (see Figure 11). In particular, the technical review and oversight by EPA and other relevant authorities were highlighted as sufficient to ensure that the tool is applied appropriately. However, some participants were concerned that the technical assessment would not be enough to justify application and reinforced that EPA and other authorities must have a formal role in the process.



**Figure 11**

Most participants agreed that the proposed information required to be submitted with a proposal to apply the draft BAO was reasonable (see Figure 12). Some participants felt the required information struck a balance and was not overly burdensome for operators. However, others were concerned that the requirements were too onerous and may discourage use of the tool. One participant advocated for a simplified process for certain industries.



**Figure 12**