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13 June 2018

Ms Kathy Mitchell
Chair, Fishermans Bend Planning Review Panel
Draft Amendment GC81
Planning Panels Victoria
1 Spring Street
MELBOURNE VIC 3000

Via email: Planning.Panels@delwp.vic.gov.au

Bcc: Parties according to the distribution list

Dear Ms Mitchell

Closing Submission to the Fishermans Bend Planning Review Panel

EPA's closing submission focusses on these three topics:

- The proposal for an audit of existing uses with adverse amenity potential
- Clarification on EPA's position on the proposal for EPA to be a recommending referral authority for certain applications
- Information on the Clean Air for All Victorians Statement

Existing Industrial Uses with Adverse Amenity Potential Incorporated Document

EPA supports the development of this incorporated document. EPA considers that this would enable planning in the precinct to be undertaken with a common understanding of the constraints related to existing industry and infrastructure. This document would form the foundation for Amenity Impact Plans. It would also enable applicants to consider design and engineering based mitigation options from the earliest stages of project inception.

EPA would seek to be involved in the scoping and oversight of this project. As the environmental regulator, EPA is a key stakeholder. It will be important to ensure that the incorporated document reflects current environmental regulation and that it is also able to respond to potential future changes to the relevant regulations and guidance.

Clarification on EPA's position on the proposal for EPA to be a recommending referral authority for certain applications

Multiple submitters have discussed the benefits or otherwise of EPA being a recommending referral authority for any proposal where an Amenity Impact Plan should be prepared. In the Minister's closing statement (Point 170-171, Document 350), it was stated that EPA had declined to be a recommending

referral authority. This statement is not a completely accurate recollection of EPA's verbal remarks at the PRP on 17th May 2018. EPA would like to clarify that its position is as follows:

- EPA considers that there may be a more effective process for managing its input in these situations than being a recommending referral authority. This would be for EPA to work with the Councils (or other relevant planning authorities) to develop guidance on the structure and contents of future Amenity Impact Plans. EPA would then work with the planning authorities to ensure that planning officers understand and implement this guidance as appropriate.
- If the PRP agrees with this option, EPA would recommend that any reference to preparation of an Amenity Impact Plan in the relevant planning controls be qualified with a conditional statement such as:
 - “ ... an amenity impact plan that responds to the Existing Industrial Uses with Adverse Amenity Potential Incorporated Document **and/or is based on EPA guidance for preparation of an amenity impact plan** and includes ... “
- EPA considers it to be important that Amenity Impact Plans are consistent and based on robust data. If this recommendation is not deemed suitable by the Planning Review Panel (PRP), then EPA is willing to consider the option of being a recommending referral authority.
- Our primary objective is to ensure that appropriate human health and environmental factors are considered in future planning processes in Fishermans Bend. We are prepared to consult with the PRP regarding the most effective process to achieve that.
- Regardless, under the reform process EPA is currently undergoing, our organisation will be expected to take a more proactive role in strategic planning, with the objective of preventing harm to human health and the environment. We anticipate that EPA will continue to provide advice to the Councils and other relevant planning authorities for future strategic planning processes in Fishermans Bend.
- EPA disagrees with Point 57.1 of the Minister's response to proposed changes – Lorimer (Document L45). We expect that Councils will be able to continue to refer planning applications to EPA under Sections 52 and 55 of the Planning & Environment Act 1987 and seek EPA advice through statutory processes. This would include seeking EPA consideration of an Amenity Impact Plan pursuant to Section 52. EPA does not consider that this process should be restricted to the responsible authority only, as it would deny them access to EPA's expertise on relevant applications.

Information on the Clean Air for All Victorians Statement

Subsequent to EPA's presentation to the PRP, the Minister for the Environment released the *Clean Air for All Victorians Statement* (3rd May 2018). The purpose of this statement is to initiate engagement with the

Victorian community on priorities for future air quality management. In the Minister's opening statement, she notes that:

The government is investing \$1.2 million to develop a Victorian Air Quality Strategy in 2019. This will articulate clear, sustainable and cost-effective approaches the government will use to monitor and manage air quality over the next decade.

On page 11 of the statement, the opportunity to use the planning system to improve neighbourhood amenity and protect human health is explicitly recognised. A specific suggestion is to improve guidance on the location and design of sensitive uses (such as education, childcare and aged care facilities) exposed to significant road traffic emissions. We note that EPA raised this issue at the PRP in relation to the major roads in Fishermans Bend and the proposal to site community facilities close to the Freeway. EPA recommends that a more appropriate site for these facilities be identified in future strategic planning, as per Point 47.1 of the Minister's response to proposed changes – Lorimer (Document L45).

If you have any questions about these suggested changes, or would like EPA to provide any supplementary submissions to the Planning Review Panel on these issues, please contact Ruth Davies, Acting Principal Planner, at ruth.davies@epa.vic.gov.au.

Yours Sincerely



Paul Bradshaw
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