

Victorian Ports Corporation (Melbourne)

Submission to Independent Review of the Dangerous Goods Act 1985 and associated regulations.

October 2020

Victorian Ports Corporation (Melbourne) (VPCM) Context

Victorian Ports Corporation (Melbourne) (VPCM) welcomes the opportunity to provide a submission to the Independent Review of the Dangerous Goods Act 1985 and associated regulations. VPCM holds the view that the safe transport, transshipment and storage of dangerous goods is critical to all ports. The proximity of the port of Melbourne to the Melbourne Central Business District and adjoining light industrial and residential areas further reinforces the need for a stringent and effective system and method of control for the handling of dangerous goods.

VPCM is a statutory authority with responsibility for the management of commercial shipping in Port Phillip, safe navigation in the port waters of the port of Melbourne, waterside emergency and marine pollution response, and the management of Station Pier as Victoria's premier cruise shipping facility. The organisation therefore has significant property and infrastructure management responsibilities. VPCM is also responsible for receiving advance notification of the intention to transport or handle dangerous goods (DGs) cargos in the port of Melbourne and operates "DG Hub" (an online communication portal) for this purpose. VPCM also has regulatory responsibilities with respect to certain hazardous port activities in the port of Melbourne.

The port of Melbourne handles a wide range of dangerous goods (DG) classifications as cargo presented in containers, as break-bulk (normally intermediate bulk containers), liquid or as bulk cargo. The cargo is either imported, exported, transited or transhipped (transferred between vessels). The majority of DGs that are brought into the port of Melbourne are:

- Class 1s (1.1, 1.2, 1.3, 1.4, 1.5),
- Class 2s (2.1 and 2.3),
- Class 3s, and
- Class 8s.

The consultation paper (October 2020) acknowledges that to adequately address the questions in the paper there must be consideration of the ways in which that legislation interacts with other regulatory frameworks that apply to dangerous goods and the ways in which these are enforced. The paper further acknowledges that the majority of DGs in Australia are imported and that most of this is via sea freight. Therefore, for a complete picture of the associated risks of DGs in Victoria we suggest that shipping specific DG legislation and practices are considered and form a prominent part of this review.

The International Management of Dangerous Goods Guidelines, International Maritime Organisations requirements for notification, manifesting, separation distances are widely understood and applied by the shipping industry and these requirements are applicable for vessels in Victorian waters.

VPCM has in place DG Guidelines for the DG operations in the port of Melbourne. Links to these documents are provided below:

- [Class 1 dangerous goods - management plan](#) (PDF)
- [Packaged dangerous goods management guideline](#) (PDF)
- [Bulk liquid cargo management guideline](#) (PDF)
- [Bulk dry cargo management guideline](#) (PDF)
- [Form 5 - Declaration for pre-loading of Class 1 dangerous goods greater than 25 kg NEQ](#) (PDF, 1.2 Mb)
- [Bunker & \(non-cargo\) liquid transfer management guideline](#) (PDF)

The following comments are relevant to DG handled in ports.

Consultation Paper Questions

Term of Reference A	The extent to which the DG Act and associated regulations promote the safety of persons and property and the effective management of dangerous goods	VPCMs Response
Question 3	How could it be improved so that it better promotes these objectives?	<p>From VPCMs perspective the lifecycle management of DGs starts (for the most part) with internationally flagged vessels entering Victorian port waters to import DG.</p> <p>DGHub is the information management system that VPCM utilises to manage the receipt of vessel manifests, which list the classification of DGs, quantities and storage locations on board the vessel as well as the shipper information details.</p> <p>This system also receives the Australian Maritime Safety Authority (AMSA) MO41 forms and Form 5s, which need to be reviewed on a risk basis and ultimately approved by the Port Authority before the DGs can enter the port for import or export.</p>

		<p>There is an opportunity for the Victorian Government to regulate the DG system that each Victorian port is required to use (where relevant) a standardised DG management system to ensure that the mechanism for recording ship manifests and the DGs on board are consistent across the State. This common platform would then allow the DG regulator and the emergency services to access one system for this information in a life cycle management and emergency response context.</p> <p>Specific legislation mandating all persons involved in the shipping of DGs through the port to use the Port Authority's DG management system would create a clearer picture of the risks of shipping and transporting of DGs in Victoria. Currently the use of the DG system in the port of Melbourne is optional and, whilst the majority of commercial vessels moving DGs through the port use DGHub, it is still voluntary.</p> <p>Vessels are able to submit the required forms and manifests via hard copy or electronically outside DGHub such as via facsimile. This means that the DG Hub does not always have a complete picture of DG storage and movements within the port of Melbourne.</p>
Term of Reference B	How the DG Act and associated regulations could be enhanced to be more risk-based and prevention focused	VPCMs response
Question 7	What role should codes and guidance material play in supporting the DG Act and associated regulations?	<p>The International Management of Dangerous Goods (IMDG) guide provides the overarching DG requirements for shipping and should be used as a primary reference in any new DG legislation for Victoria together with the IATA Dangerous Goods regulations. The mandated use of IMDG and IATA DGR provides all stakeholders with up-to-date reference information and standards of training.</p> <p>The consultation paper outlines the regulatory framework for DGs in Victoria (pg. 22. Figure 4.). However, it does not account for the international context of the IMDG, International Maritime organisation (IMO) and the Australian Maritime Safety Authority (AMSA) requirements relating to DG and shipping.</p> <p>Including IMDG would ensure that the DG requirements from a shipping perspective are known to all parties involved in the DG manufacturing, supply, transport, use and disposal, such as the need to have completed the IMDG training and associated refreshers and the requirement to have on hand the relevant documentation as amended from time to time.</p>

<p>Question 8</p> <p>Do you have any suggestions about how the codes and guidance material issued by WorkSafe could be improved?</p>		<p>The WorkSafe Guides are based upon the DG legislation which are predominately aimed at the storage and transport of DGs. The transport aspects of this as well as storage do not necessarily include the shipping activities from the transfer of DG from a vessel to port facilities or another vessel.</p> <p>A specific guide on DGs in the port environment would be useful. Developing and releasing a guide for DGs in Victorian ports will create clear expectations of all persons involved in the shipping DGs from a landside perspective through the port on the regulations, systems, obligations and responsibilities of being involved in shipping DG in Victoria.</p>
<p>Question 10</p>	<p>What kinds of incidents involving dangerous goods should duty holders be required to report to WorkSafe?</p>	<p>The incumbent system of OH&S notifiable incidents required by Worksafe are very clear on the reporting parameters to the regulator on OH&S incidents. The reporting has led to greater understanding of the near miss incidents as well as the actual number of injuries. In order to improve the analytical data relating to incidents and near misses involving DG, VPCM would support Worksafe augmenting current OH&S reporting to include DG's, in order to create a positive duty to report loss of control incidents and near misses.</p>
<p>Terms of Reference C</p>	<p>The efficacy of the DG Act and associated regulations in deterring non-compliance and illegal activity in relation to the management of dangerous goods</p>	<p>VPCMs response</p>
<p>Question 11</p>	<p>How could the dangerous goods legislation be made more effective in deterring non-compliance and illegal activity in relation to the management of dangerous goods?</p>	<p>From a port management perspective, it may be useful for the Independent Review to consider how other jurisdictions assign the regulatory authority for managing DGs in the Port environments around the country and also internationally.</p> <p>For example, in NSW, The Port Authority of NSW is specifically assigned responsibility under Part 11 of the Dangerous Goods (General) Regulation 1999, that imposes the requirement of AS 3846 - The Handling and Transport of Dangerous Cargoes in Port Areas to and in respect of the handling and transport of dangerous goods in port areas. The Port Authority of NSW is assigned this responsibility under the Port Safety Operating Licence (issued by the Minister for Ports and Freight) which details standards for managing, auditing and inspecting DGs in port.</p> <p>In undertaking this responsibility, Port Authority of NSW references the following:</p> <ul style="list-style-type: none"> ○ Australian Standard 2187 - Explosives-Storage, Transport and Use.

		<ul style="list-style-type: none"> ○ International Maritime Dangerous Goods (IMDG) Code ○ International Maritime Organisation's (IMO's) Recommendations on the Safe Transport of Dangerous Cargoes and Related Activities in Port Areas ○ Australian Explosives Code - Third edition Dangerous Goods are substances and articles that: <ul style="list-style-type: none"> • Satisfy the UN tests and criteria for determining whether they are dangerous goods: or • Are listed in the IMDG Code; or • Are determined to be dangerous goods by the competent authority. <p>This model is considered to work well as there is consistency in the transition from the ship (International Management of Dangerous Goods Guide (IMDG) and the International Maritime Organisations (IMO) legislative requirements which feed into the Australian Maritime Safety Authorities (AMSA) regulatory requirements for the notification and management of DG on vessels) to the terminal environment. The Port Authority has the necessary skills and experience to understand the complexity of the port environment and the potential non compatible operations.</p> <p>The port authority is able to have the necessary information and approvals that provides a level of situational awareness to the port manager who makes determinations on what can and cannot happen within the port which is often a complex environment. This complexity is perhaps best described as having an overall picture of the risks in port whereby various terminal operators maybe undertaking non compatible tasks without the knowledge of what each other are doing. These non-compatible dangerous goods activities can result in catastrophic events as seen recently overseas.</p> <p>Currently the Port Authority for the port of Melbourne (VPCM) is tasked to manage the ports DG management system, 'DGHub'. This ensures that the IMDG, IMO and AMSA requirements of DG shipping are managed. However, as the DGs cross over to the port terminal WorkSafe current has responsibility for the DGs.</p> <p>VPCM has the legislative responsibility to manage Hazardous Port activities in the port and this include Class 1 Dangerous Goods. This responsibility was given to VPCM acknowledging they were best placed to manage the risk in line with the international regulatory frameworks.</p> <p>Clarification regarding WorkSafe Victoria's inspection/ auditing programmes in the port terminals would be helpful. It may be useful to ensure the legislation is clear on which organisation has the responsibilities for carrying out DG audits and inspection in the port</p>
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Question 12	What methods could WorkSafe use to identify unknown dangerous goods sites, and do those methods require additional legal powers?	<p>VPCM suggests that through building stronger interagency ties between WorkSafe Victoria and the port authorities would improve the safety of DG transport through the port. WorkSafe in tracing the lifecycle of imported DG through the port DG system could track where DGs are going and follow this through to use and disposal.</p> <p>This life cycle auditing could assist in identifying breaches to the regulations and non-compliant storage facilities.</p>
Question 15	What methods could WorkSafe use to monitor the dangerous goods market, and do those methods require additional legal powers?	<p>Following on from VPCMs response to Q11., WorkSafe Victoria's programme for auditing the declared DGs in the port (terminals) and monitor compliance with packaging, transport and the time that these products remain in the terminals could be clarified.</p> <p>VPCM would welcome joint auditing programmes and multiagency joint operations to audit DGs through the port to ensure the safety of all port users by ensuring there is compliance with DG legislation.</p> <p>VPCM would suggest that a port authority nominated DG system be made mandatory for use by all persons involved in the shipping of DG through any Victorian Port. This would allow WorkSafe to access the DG systems and provide a mechanism for tracing DG that are imported and exported (including DG waste).</p>
Question 17 - 20	What kind of information sharing should be permitted?	<p>VPCM would support WorkSafe Victoria or any other agency requesting a data sharing agreement to access the Ports DG management system. Agreements are in place for Fire Rescue Victoria to access the DGHub information to allow for timely situational awareness of the emergency response organisations in the port (on water and in the terminals and on land transport) for accessing the information 24/7.</p> <p>If WorkSafe Victoria had access to this information, it may allow for DG life cycle tracking for DG coming into and out of the Port.</p>

	What are the obstacles to the effective management of dangerous goods where the functions and powers of multiple agencies intersect and overlap?	As Above.
	How could interagency coordination in relation to dangerous goods be improved?	As Above.
	Should powers be delegated between agencies to improve coordination?	As Above.
Term of Reference E	Ways to streamline and modernise the DG Act and regulations	VPCMs Response
Question 40	Should a new DG Act adopt (as far as possible) the structure, order, language and conceptual framework of the OHS Act?	<p>Yes.</p> <p>From a safety practitioners' perspective there would be benefits in including DGs as an occupational hazard like Noise or Plant in the OHS legislation. Utilising the existing framework would reduce the regulatory burden and make clear to employers their responsibilities in relation to an occupational health and safety issue, DGs. Harmonising the wording of the duties under the two frameworks would assist in understanding the relevant duties and with compliance by the duty holder.</p>
Question 49	Should ammonium nitrate be regulated by the Explosives Regulations?	<p>Yes.</p> <p>Noting the well documented volatility of this product and its potential misuse in criminal or terrorist activities, VPCM would recommend that ammonium nitrate be regulated by the explosive's regulations. This would allow greater oversight of the transport and storage of this product and allow detailed auditing to be carried out to ensure that it is being appropriately managed.</p> <p>Recent events have shown that managing the risks of non-compatible operations, in this case storage of ignition sources, needs to be carefully scrutinised by the regulator and managed by the responsible organisation to ensure safe outcomes for the community.</p>

Term of Reference F	Other relevant matters	VPCMs Response
Question 50	Are there any other relevant matters that the Review should consider?	<p>VPCM strongly recommends the review to consider mandating the use of the Port Authority's nominated DG Systems for all person shipping DGs in Victoria. A common DG management platform for all Victoria commercial ports would be preferable. However in lieu of this, requiring people to compulsorily use the port authority's nominated system will ensure that all declared DGs in port (on water and in terminal) are known and this information is able to be accessed by emergency services if required to do so. Mandating the use of the port authority's DG management system would also assist the regulator to track DGs through their lifecycle from importation through to use and disposal.</p> <p>Victorian Ports Corporation (Melbourne) would welcome an invitation for VPCM and potentially other port authority representatives in Victoria to join the WorkSafe Dangerous Goods Stakeholder Reference Group. The potential benefits of this would include WorkSafe being provided with a lens on emerging issues in State waters, through to terminal operations and provide greater synergies and closer working relationships for WorkSafe and the Ports authorities to enable focused auditing and inspection of DG compliance in the port environment.</p>

VPCM would welcome the opportunity to discuss the submission upon request. If you would like to further discuss this matter please free to contact [REDACTED] Executive General Manager Marine & Navigation (Harbour Master) Victorian Ports Corporation Melbourne on [REDACTED]