



12 June 2020

Department of Environment, Land, Water and Planning
2 Lonsdale Street
Melbourne
VIC 3000

Ask for: Jo Jo Chen
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Our Ref: A3337586

To whom it may concern

Submission to integrating EPA reforms into Victoria's land-use planning system

Hobsons Bay City Council welcomes the opportunity to provide feedback on the integration of the Environment Protection Authority (EPA) Reform into Victoria's land-use planning system. We appreciate DELWP's flexibility allowing Hobsons Bay to submit this response slightly late, which allowed for consultation to be completed across the relevant areas of the organisation prior to submission.

Our key comments are summarised as follows, with detailed comments attached:

- The PPN30 should provide more guidance on the appropriate level of assessment based on potential risk of contamination for Council.
- Consideration should be given to how potentially contaminated land is managed where developments are exempt from a planning permit.
- The appointed environmental auditor should be required to consult with Council before finalising the Audit Report and the Statement of Environmental Audit to ensure good land use outcomes.
- The draft PPN should clearly specify that the EPA or relevant authority is responsible for implementing and enforcing ongoing recommendations rather than Council.

If you wish to discuss this submission with officers please contact Jo Jo Chen, Team Leader Strategic Planning on 9932 1094 or jchen@hobsonsbay.vic.gov.au.

Yours sincerely

Penelope Winslade

Director Sustainable Communities

Attachment 1 – Hobsons Bay City Council Submission to EPA Reform into the Victoria Land Use Planning System

Level of Assessment

- Table 3 in the draft PPN30 does not appear to provide clear guidance on the appropriate level of assessment based on potential risk of contamination for sensitive and non-sensitive land uses. For example, if a Planning Scheme Amendment proposes a sensitive use on a site, the draft PPN currently recommends a desktop study, Preliminary Site Investigation (PSI) or Preliminary Risk Screen Assessment (PRSA) to determine whether the site is Potentially Contaminated Land (PCL), and whether an environmental audit would be required. Council would need to determine the appropriate assessment tool based on its consideration of the potential contamination risk.

Use or Works exempted from Planning Permit

- The draft PPN appears to be silent on the management of potential land contamination and risk of exposure for works / development currently exempted from a planning permit. This could be a missed opportunity to appropriately assess whether the land is PCL and whether the proposed use/works are of a sensitive nature.

Environmental Audit

- It is important for the appointed environmental auditor to consult with Council prior to preparing the Audit Report and the Statement of Environmental Audit to ensure good land use planning outcomes are considered. This step should also be included in the EPA's guidance notes to auditors.
- In addition, Council currently requires a planning permit for minor works associated with site investigation or remediation due to community concern (such as asbestos removal). However, these works are dealt with by another authority such as EPA or Worksafe. An alternative approach to place responsibility on the relevant authority while addressing community concern should be considered.

Implementation for Ongoing Recommendations

- The draft PPN specifies that Council may require a s173 agreement for implementing ongoing recommendations from the Statement of Environmental Audit. Once entered, Council would be required to manage and enforce these agreements. This statement appears to contradict the responsibility table under section "*What if long term controls are needed to ensure safe ongoing site management?*", which states that the EPA is responsible for implementing ongoing recommendations.
- Managing and enforcing s173 agreements on an ongoing basis pose onerous responsibly and resource implication on Council. The draft PPN should clearly

specify that the EPA or relevant authority is to be responsible for implementing and enforcing ongoing recommendations.

- The draft EAO specifies that permit conditions may include the management of contamination after the use/development commences. This approach should be reconsidered, particularly for ongoing management. Further, the legality for including ongoing management conditions in planning permit, especially in subdivision permits, should be investigated. It is understood that once the plan of subdivision is registered and title issued, the permit is considered 'spent' and its conditions become 'invalid'.
- The approach to have Site Management Orders with ongoing recommendations placed on land titles is supported.

Other

- 'Sensitive Use' should be defined in Clause 73.01 General Terms, rather than in the draft EAO.
- Clarity should be provided in Table 2 in the proposed PPN in terms of the how close by is considered to be 'sites adjacent to contaminating activity'.