

Planning Guidance: Assessing an application for a food or beverage production facility

A guide for land use planners

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Development Advisory



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Purpose of this guideline

1.1. Introduction

This guideline applies to food and beverage production facilities, including those associated with other land uses. It covers the processing of meat, vegetable and fruit into food and beverage products for human consumption. It is intended to help responsible authorities and planning permit applicants identify and control risks and assist in the preparation and assessment of planning permit applications.

This guideline is targeted at small to medium sized facilities that are often proposed in established commercial/industrial and mixed-use areas experiencing a transition in land use but may also be considered for larger facilities.

1.2. Legal status

EPA guidance does not impose compliance obligations. Guidance is designed to help duty holders understand their obligations under the *Environment Protection Act 2017* and subordinate instruments, including by providing examples of approaches to compliance. In doing so, guidance may refer to, restate, or clarify EPA's approach to statutory obligations in general terms. It does not constitute legal or other professional advice, and should not be relied on as a statement of the law. Because it has broad application, it may contain generalisations that are not applicable to you or your particular circumstances. You should obtain professional advice or contact EPA if you have specific concerns. EPA has made every reasonable effort to provide current and accurate information, but does not make any guarantees regarding the accuracy, currency or completeness of the information.

1.3. Intended audience

This guideline has been prepared by EPA generally for responsible authorities who may receive and be required to assess planning permit applications for food and beverage facilities. However, it may also be useful for other parties involved in the process, such as planning permit applicants or other planning authorities.

Food or beverage production facility developments and planning

2.1. How are food or beverage production facilities defined in planning schemes?

Food and beverage production falls under the 'industry' land use term as defined in the Table to Clause 73.03 (Land use terms) of the Victoria Planning Provisions (VPP).

The range of uses considered to be 'food and beverage production' are further set out in Clause 53.10, which is further discussed in section 2.5 of this guideline.

2.2. What are the risks to the environment and human health from food or beverage production facilities?

If risks are not adequately managed, food and beverage facilities may cause adverse impacts on the environment, amenity and human health. Best practice design and operation of facilities can minimise many of the potential impacts. Potential risks include:

Odour: Odour is the most commonly reported emission type associated with food and beverage activities. Odours can be released from cooking/baking, smoking, steam peeling, dehydrating, and from inappropriate storage and disposal of waste, which attract birds and rodents.

Emissions from gas or electric ovens and fryers include volatile organic compounds (VOCs) and oxides of carbon, nitrogen and sulphur, which are associated with environmental and human health impacts. Appropriate stack heights and emission controls to eliminate/minimise emissions should be employed.

Dust: Dust and other airborne particulates may be generated, particularly within processes involving roasting and the handling and use of fine product inputs such as grains and flours. Bulk storage containers and stockpiles should be covered or enclosed.

Noise: Onsite activities have the potential to create noise impacts for surrounding land uses. Noise may arise from the use of roller doors, on-site electric appliances, outdoor mechanical plant / machinery, extractor fans, loading and unloading activities, and truck/vehicle reversing and traffic.

Contaminated wastewater: Wastewater arising from production, cleaning activities and spillages may contain suspended solids, fats, oils, dyes, chemicals, pathogens, pesticides, nutrients, microbes and soil particles. These can pollute waterways if discharged to stormwater untreated.

Waste management: Large volumes of organic, putrescible solid waste may be generated. Solid wastes should be collected in bins of an appropriate size and be bird and vermin-proof (closed receptacles). Waste of any type must not be allowed to accumulate and enter drains, where it can enter a receiving waterway in the surrounding environment.

Litter: Litter from vehicle loading and unloading areas or from other sources can be wind-blown into the surrounding areas and impact local amenity. Windblown litter must be prevented from leaving the premises.

2.3. Location and siting of food or beverage production facilities

Siting from sensitive receptors

Food and beverage premises can have adverse impacts on the surrounding area by impacting air, land and groundwater. Odour and dust, as well as noise and stormwater pollution are common concerns. These impacts need to be considered when planning a new facility or a major upgrade or expansion of an existing site. The existing site context and the surrounding area should be compatible with the proposed use/development. A facility should be located in an area where it will not pose an adverse risk to the environment, amenity, or health of the local community.

To protect human health and amenity, appropriate separation distances should be provided between facilities and sensitive land uses.

Siting and environmentally sensitive areas

Food and beverage facilities should be designed to prevent polluted water from entering the stormwater system. The land should not be flood prone (it should have a flood average recurrence interval less than 100 years) to reduce the risk of wastewater being discharged to waterways. Stormwater coming from material or product handling areas, such as loading and unloading zones, should be isolated for treatment and reuse on-site or directed to sewer.

Planners are encouraged to use Land Subject to Inundation Overlays, Special Building Overlays, Floodway Overlays, and Urban Floodway Zone as a basis for identifying high risk flood prone areas.

Contingency planning should consider and plan for the management of flood events, regardless of site location.

Cumulative impacts in conjunction with other activities

Cumulative environmental, human health and amenity impacts should be considered at sites with the same or other similar activities nearby, having potential adverse impacts both on site and in the immediate vicinity. This is particularly relevant for food and beverage activities, where, for example, a coffee roaster is proposed in close proximity to another existing coffee roaster or other potentially odorous activity. A cumulative assessment will take into account the impact of the existing source(s) and how the separation distance may vary if adding a further source.

2.4. What separation distances apply to food or beverage production facilities?

Even when food and beverage production facilities are operating in accordance with all relevant statutory obligations, there may still be unintended offsite impacts that must be accounted for. Separation distances are designed to account for such impacts and at the same time minimise the risk of human health and amenity impacts on any nearby sensitive land uses. However, they are not an alternative to controlling offsite impacts or meeting legal obligations.

Where an applicant has requested a variation from a recommended separation distance, it is the responsibility of the applicant as the 'agent of change' to demonstrate to the responsible authority that the variation is appropriate.

Separation distance guidelines (EPA publication 1518 or as amended)

EPA publication 1518 provides advice on recommended separation distances between industrial land uses that emit odour or dust, and incompatible land uses that are likely to experience adverse human health and amenity impacts (such as sensitive land uses). Table 1 within the EPA publication 1518 lists separation distances applicable to food and beverage facilities. For some activities, Clause 53.10 will have a threshold distance greater than EPA publication 1518.

The reasoning for the discrepancy in distances is;

- Difference in terminology and outcomes between a threshold distance and a recommended separation distance;
- EPA publication 1518 provides advice on recommended separation distances in respect of 'off-site residual air emissions' only and does not consider other risks such as noise and vibration, which are addressed in other EPA guidelines and the Environment Reference Standard (ERS);
- EPA publication 1518 assumes that the facility operates at best practice.

EPA advises that as the state of knowledge on food and beverage facilities evolves, EPA Publication 1518 may be amended or superseded by new information.

2.5. What threshold distances apply to food or beverage production facilities?

Clause 53.10 - Uses with adverse amenity potential

Clause 53.10 defines those types of industries, which if not appropriately designed and located, may cause offence or unacceptable risk to the surrounding area. It has a much broader scope than EPA separation distance guidelines (such as EPA publication 1518, or as superseded), as such risks may include dust, noise, light, traffic and other issues which may impact on the local community.

The table to Clause 53.10 contains a 'Food and Beverages' category which includes a variety of uses and activities and associated threshold distances.

EPA is a 'determining' referral authority for applications that seek to use land for industry or warehouse where the threshold distance specified in the table to Clause 53.10 is not met.

Environmental risk management and controls

Appropriate separation distances and siting of facilities do not eliminate the need for effective source emission control. Assessing and controlling risk: A guide for business (EPA publication 1695) provides a risk management framework that can be applied to help prevent harm to human health and the environment and includes information on:

- identifying hazards,
- assessing risks, and
- implementing and monitoring controls to incorporate into the design and operation of their facility.

Proposals for food and beverage facilities should address these environmental and amenity risks and demonstrate the relevant control measures in the planning permit application (including on plans) to prevent harm to human health and the environment, comply with legal obligations, and meet community expectations.

EPA advice and support

EPA provides environmental expertise to assist responsible authorities in understanding environmental risks associated with certain planning and development decisions. EPA can help prevent risk to human health and the environment and improve the quality of land use and development decisions by:

- highlighting significant environmental and human health risks or impacts likely to occur from the proposed use or development
- providing technical advice to support planning and responsible authorities to eliminate or otherwise reduce environmental risks
- providing information and guidance related to management techniques for environmental and human health protection
- recommending interventions, such as planning permit conditions, where appropriate.

4.1. Environment Protection Act 2017

The *Environment Protection Act 2017* (EP Act) and related sub-legislative instruments came into effect on 1 July 2021 and sets the required approach for environmental management for Victoria. The focus is on preventing pollution impacts rather than managing those impacts after they have occurred. The cornerstone of the Act is the general environmental duty (GED), which requires Victorians to understand and minimise their risks of harm to human health and the environment, from pollution and waste.

Under the GED, "a person who is engaging in an activity that may give rise to risks of harm to human health or the environment from pollution or waste must minimise those risks, so far as reasonably practicable". Reasonably practicable means implementing controls that are proportionate to the risk, particularly in the design stage of a new development or when updating an existing development.

The action to minimise a risk is 'reasonably practicable' if:

- it is generally adopted within an industry or should be adopted, based on what is known, or has been experienced in the past
- the actions and measures undertaken are suitable, available and the cost is proportionate to the risk.

More information on how to comply with the GED is available in *Industry guidance: Supporting you to comply with the general environmental duty* (EPA publication 1741).

4.2. Environment Reference Standard

The Environment Reference Standard (ERS) is a subordinate instrument under the EP Act that sets out the environmental values that are to be achieved or maintained in Victoria. Environmental values describe a use, attribute or function of the environment that Victorians value. As reference standards, environmental values can be identified in relation to objectives for supporting different uses of the environment and through indicators that can be measured to determine whether those objectives are being met.

The ERS contains environmental values, indicators and objectives for:

- Air (Part 2)
- Noise (Part 3)
- Land (Part 4)
- Water (Part 5).

When considering an application for a planning permit, the responsible authority may consider the ERS, where relevant, 'if the circumstances appear to so require it'. The responsible authority must determine whether the circumstances of the application would require the ERS to be considered. Where they do, the relevant environmental values, indicators and objectives should be considered.

For further detail on the ERS, refer to the *Guide to the Environment Reference Standard* (EPA publication 1992)

4.3. Environment Protection Regulations 2021

The Environment Protection Regulations 2021 (EP Regulations) set out which activities require an EPA permission to develop and/or operate (licence, permit or registration). The type/level of EPA permission required is dependent on activity type and production capacity threshold limits set out in *Schedule 1- Prescribed permission activities, exemptions and fees*.

Food processing is listed in Schedule 1. Item 43, Activity type D06 (Food processing) as a 'prescribed development activity' and a 'prescribed operating activity.' This means that a food processing plant having a designed production capacity of at least 200 tonnes per year must obtain both a development licence and an operating licence from EPA to operate lawfully.

Please refer to Schedule 1 of the EP Regulations for other food and beverage activity types.

Part 5.3 of the EP Regulations – Noise, requires that a prescribed Noise Protocol be used to measure and assess noise and stipulates maximum day and night-time noise limits from premises. (Division 3 - *Unreasonable and aggravated noise from commercial, industrial and trade premises*). The *Noise limit*

and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues (EPA publication 1826) outlines the Noise Protocol methodology.

4.4. Planning and Environment Act 1987

Section 55 referrals

EPA has specialist expertise to advise responsible authorities on risks to the environment, amenity and human health. EPA provides this expertise as a referral authority under Section 55 of the *Planning and Environment Act 1987* (P&E Act).

Section 55 requires that a responsible authority give a copy of an application to every person or body that the planning scheme specifies as a referral authority for that kind of application. Pursuant to Clause 66.02.7 of the Victoria Planning Provisions, EPA is a determining referral authority for food and beverage facilities not meeting the threshold distances set out in Clause 53.10 or requiring development or operating licences under the EP Regulations 2021.

EPA may object to the application; in which case the responsible authority must refuse to grant a permit. Alternatively, where EPA specifies conditions, those conditions must be included in any permit granted.

Further information is available in Planning Practice Note 54: Referral and Notice Provisions.

EPA considers the potential environmental risks posed by the proposal and assesses the siting and design of the facility to respond to the identified risks as part of its assessment and response. The referral response is informed by the recommended separation distance for the proposed use and a sensitive use, specified in EPA publication 1518 or as superseded.

Section 52 notifications

For applications where the threshold distance has been met, or responsible authority seeks EPAs expertise, a responsible authority may still give notice of the application to EPA under section 52(1)(c) of the P&E Act for advice on controlling the risks to the environment, amenity and human health.

When writing to EPA, it should be specified whether notice is being given under Section 52 or if being referred under Section 55 of the P&E Act.

EPA may object to an application that it has been notified of; however, the responsible authority may still choose to grant a permit.

EPA response time

EPA is committed to providing an initial response to both Section 55 referrals and Section 52 notifications within 28 days. Councils may request a faster response time, which will be considered based on the individual merits of the application.

Application requirements – what information can a responsible authority request?

EPA referral responses may include advice targeting the suggested control measures outlined in EPA guidance, and when appropriate, clear, and enforceable planning conditions that effectively manage

risks of harm. Applications for food and beverage facilities should at a minimum, consider the likely environmental and human health effects on the locality and surrounding land uses, including expected:

- noise levels
- air-borne emissions (including odour and dust)
- emissions to land or water

In determining the suitability of a site for development and use of a food and beverage facility, the responsible authority may consider requesting supporting documentation prepared by a suitably qualified environmental or health professional. Supporting documentation can assist in the assessment of a planning application, or form the basis for ongoing management of risks to the environment or human health as part of the proposal. Endorsed plans or documents may be included as part of the planning permit approval.

5.1. Supporting documentation - assessment

Land use planning proposals must not prevent the applicant from achieving compliance with the GED. Where it is unclear whether risks to the environment or human health can be managed appropriately, it is the obligation of the applicant to demonstrate that risks are acceptable. The responsible authority may request additional assessment documentation, this may include plans or documents for endorsement as part of the planning permit approval. For food and beverage facilities, additional assessments should be proportionate to the risk and may commonly include, but are not limited to:

Human health risk assessment (HHRA)

- A HHRA is scalable depending upon the risk to human health from the proposal, it should demonstrate that no unacceptable public health risks are likely from the proposal or proposed operations enabled by the planning permit.

Acoustic assessment

- An acoustic risk assessment should follow the methodology outlined in the *Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues* (EPA publication 1826) and demonstrate whether noise emitted from the proposal would be determined unreasonable per the *Environment Protection Regulations 2021 (r. 118)*.

Nuisance dust assessment

- Nuisance dust assessments provide an assessment to determine the overall risk of nuisance dust impact to the receiving environment and locality.

Odour assessment

- Odour assessments should evaluate the potential impact of odour on human health and wellbeing within the locality of the proposal. *Guidance for assessing odour* (EPA Publication 1883) provides guidance for undertaking odour assessment.

5.2. Supporting documentation – ongoing management

In circumstances where the protection of environmental and human health is dependent upon the ongoing management of risks, the responsible planning authority should consider requesting that an environmental management plan be prepared.

Environmental management plan

- An Environmental Management Plan should,
 - address each of the environmental and human health risks identified with a proposal and document what control measures will be put in place during the development of, and continued operation of the facility.
- Depending on the scale and nature of risks posed by the proposal, the following components should be considered for inclusion in an Environmental Management Plan,
 - **Stormwater Management** – reflecting guidance on best practice site management techniques.
 - **Dust Management** – reflecting guidance on best practice site management techniques.
 - **Odour Management** – reflecting guidance on best practice site management techniques.

Even if Clause 53.10 threshold distance is met, the operator will still have obligations to control source emissions under the EP Act.

Each of the above plans/assessments should demonstrate compliance with the relevant legislation and, where appropriate, make recommendations to control and mitigate environmental risks.

EPA aims to work with responsible authorities to review the content of supporting plans/assessments and develop recommendations into planning controls for a site.

The type of information provided with a planning permit application should be proportionate to the anticipated environmental, human health and amenity risk of a proposal.

Appendix A includes a checklist for councils and proponents, which will assist in the application assessment process.

More information

Additional, relevant planning information and guidance includes:

- *Industry guidance: supporting you to comply with the general environmental duty* (EPA publication 1741)
- *Assessing and controlling risk: A guide for business* (EPA publication 1695)
- *Manufacturing - guide to preventing harm to people and the environment* (EPA publication 1822)
- *Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues* (EPA publication 1826)
- *Draft urban stormwater management guidance* (EPA publication 1739)
- *Urban Stormwater Environmental Best Practice Environmental Management Guidelines* (BPEM) (CSIRO).
- *Separation Distance Guidelines* (EPA publication 1518)
- *Guidance for assessing odour* (EPA Publication 1883)
- *Guide to the Environment Reference Standard* (EPA publication 1992)

- *Urban stormwater management guidance (EPA publication 1739.1)*
- *Best Practice Environmental Management Guidelines, 1999*

More information about planning schemes and the planning permit application process is available online: planning.vic.gov.au

Appendix A – Food or beverage production facility application checklist

| | |
|--|--|
| APPLICATION #: | |
| Details of development | |
| Portion of site land affected by this application: | |
| Photographs: | |
| Other: | |
| Details of PRIMARY use or development | |
| Primary use proposed: | |
| How much waste from Primary use? | |
| Details of OTHER use (if applicable) | |
| Description of any OTHER related operations (e.g. other production, café, retail shop etc.): | |
| Description of OTHER type of waste: | |
| Volume of OTHER type of waste: | |

| Details of risk management measures | |
|---|--|
| Bunding details: | |
| Stormwater controls: | |
| Fire prevention considerations and CFA involvement: | |
| Setbacks to boundaries: | |
| Distance to Sensitive receptors: | |
| Required separation distances: | |
| Modelling (e.g., air, odour, noise): | |
| Litter Management: | |
| Measures to control odour | |
| Measures to control dust: | |
| Measures to control noise | |
| Measures to control vermin: | |
| Transportation measures to ensure adherence to council rules, preventions of spills, nuisance noise etc.: | |
| OTHER COMMENTS | |
| | |

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