

# Terms of Reference

## Fishermans Bend Standing Advisory Committee

An advisory committee was appointed pursuant to section 151 of the *Planning and Environment Act 1987* to advise on outstanding issues relating to site-specific planning controls to facilitate proposals to redevelop land within Fishermans Bend prior to the introduction of an Infrastructure Contributions Plan. Site specific planning controls relate to :

- land subject to permit applications called in by the Minister before the approval of Amendment GC81; and
- land subject to a proposal for use and development in Fishermans Bend that responds to local policy set out in the relevant planning scheme, meets the requirements of the controls introduced by Amendment GC81 and makes appropriate development contributions.

### Name and Membership

1. The Advisory Committee is to be known as the 'Fishermans Bend Standing Advisory Committee'.
2. The Advisory Committee is to have members with the following skills:
  - a. Statutory and Strategic Land Use Planning
  - b. Planning Law
  - c. Urban Design and Architecture
3. The Advisory Committee will include an appointed Senior Panel Member as Chair, a Deputy Chair and members.
4. The Fishermans Bend Task Force and the Development Approvals and Design unit within the Department of Environment, Land Water and Planning (DELWP) will liaise with Planning Panels Victoria (PPV) to support the Advisory Committee process.

### Purpose

5. The purpose of the Advisory Committee is to:
  - a. Advise the Minister for Planning on only unresolved issues between the Proponent and other parties relating to site-specific planning controls pursuant to clause 45.12 to achieve appropriate land use and development outcomes for land within Fishermans Bend in advance of approval of an Infrastructure Contributions Plan.
  - b. Provide a timely, transparent and consultative process for assessment of the suitability of site-specific planning controls for land within Fishermans Bend.

### Background

6. Fishermans Bend is Australia's largest urban renewal project covering approximately 480 hectares of mainly industrial land. The area includes land in the City of Melbourne and the City of Port Phillip. Fishermans Bend is identified as a priority precinct in Plan Melbourne and will play a key role in accommodating significant population and employment growth.
7. In 2012, the former Minister for Planning declared Fishermans Bend a project of State significance and approved Melbourne Planning Scheme Amendment C170 and Port Phillip Planning Scheme Amendment C102.
8. On 3 October 2016 the Minister for Planning released the *Fishermans Bend Vision – The next chapter in Melbourne's growth story, September 2016*.

9. In November 2016 the Minister introduced interim planning controls as part of Planning Scheme Amendment GC50 (updated by Amendment GC59).
10. In October 2017, the Minister released the draft *Fishermans Bend Framework*. Proposed permanent planning controls through draft Amendment GC81 were prepared to enable the realisation of the Vision and support implementation of the Framework.
11. On 19 December 2017 and 21 February 2018, the Minister called in twenty six applications for land use and development in Fishermans Bend from VCAT (pursuant to clause 58(2)(a) of Schedule 1 to the *Victorian Civil and Administrative Tribunal Act 1998*) and from himself (as the responsible authority under section 97B of the *Planning and Environment Act 1987*) (the Applications).
12. Consideration of the Applications was deferred until the permanent planning controls for Fishermans Bend were approved as it was considered that the cumulative impact of the applications raised major issues of policy.
13. Amendment GC81 was introduced into the Melbourne Planning Scheme and Port Phillip Planning Scheme under section 20(4) of the *Planning and Environment Act 1987*. It introduced permanent planning controls, and included the final *Fisherman's Bend Framework, September 2018* (the Framework) as a reference document. It included the Infrastructure Contributions Overlay, which prevents a permit from issuing until an Infrastructure Contributions Plan (ICP) is incorporated into the scheme.

*Land subject to permit applications called in by the Minister before the approval of Amendment GC81*

14. The Advisory Committee is to consider a site-specific planning control to facilitate a proposal for land use and development within Fishermans Bend, subject to the proposal:
  - a. responding to local policy;
  - b. meeting the requirements of the Design and Development Overlay, Parking Overlay and Capital City Zone other than:
    - i. the dwelling density requirement;
    - ii. the requirement to be generally in accordance with the Fishermans Bend Framework (September, 2018); and
    - iii. the permit condition requirement to enter a section 173 agreement to provide a new road or laneway; and
  - c. making appropriate development contributions.
15. In relation to the requirements to be generally in accordance with the Fishermans Bend Framework (September 2018) and to provide new roads and laneways, proponents will be encouraged but not required to meet these requirements.
16. Proponents who lodged a permit application prior to the approval of GC81, may prepare a site specific planning control to facilitate a proposal which responds to the permanent planning controls as set out in paragraphs 14 and 15.

*Land subject to new proposals*

17. The Advisory Committee is to consider a site-specific planning control to facilitate a proposal for land use and development within Fishermans Bend, subject to the proposal:
  - a. responding to local policy;
  - b. meeting the requirements of the Design and Development Overlay, the Parking Overlay and the Capital City Zone; and
  - c. making appropriate development contributions.

## **Scope**

18. The Advisory Committee may inform itself in anyway it sees fit.

19. In assessing the appropriateness of a site specific planning control to facilitate a proposal, it must consider:
  - a. Relevant aspects of the *Planning and Environment Act 1987*, the Planning Policy Framework, and the Local Planning Policy.
  - b. The content and purposes of the planning controls introduced under Amendment GC81.
  - c. The compliance of the proposal with the requirements of the permanent planning controls set out in paragraphs 14-15, or 17, of these Terms of Reference, as applicable.
  - d. Whether any departure from the Framework compromises the objectives of the Framework
  - e. The cumulative effect on the preferred character of the relevant precinct or the ability to achieve the objectives of Fishermans Bend arising from any departures from the Framework or the requirements of the permanent planning controls.
  - f. The provision of appropriate development contributions in the form of monetary contribution, land contribution, works in kind or a combination of these and the extent to which they are consistent with, and contribute to, the objectives of the Framework.
  - g. All relevant submissions and evidence regarding the site-specific planning control to facilitate the proposal.
20. The Advisory Committee is directed not to consider submissions and evidence in relation to:
  - a. The application or operation of the Infrastructure Contributions Overlay.
  - b. The quantum of or need for public open space, roads and laneways.

## **Method**

21. The Minister for Planning may refer a proposal for advice on unresolved issues associated with the site-specific planning control to facilitate the proposal in accordance with the scope outlined within these Terms of Reference.
22. The Advisory Committee may apply to the Minister for Planning to vary these Terms of Reference in any way it sees fit before submitting its report(s).
23. The Advisory Committee may meet and invite others to meet with it when there is a quorum of at least two Committee members including either the Chair or Deputy Chair.
24. The Advisory Committee may seek advice from experts, including legal counsel where it considers this is necessary.
25. Planning Panels Victoria is to provide administrative support as required.

## **Notice**

26. DELWP will be responsible for notifying the City of Port Phillip and City of Melbourne (as appropriate) and relevant persons including land owners and occupiers who may be affected by the proposed request for site specific planning controls.
27. The Advisory Committee is not expected to carry out any additional public notification or referral but may do so if it considers it to be appropriate.
28. Submissions will be collected by DELWP. Copies of submissions will be made available to the City of Melbourne and the City of Port Phillip (as appropriate) and other submitters upon request.
29. Petitions and pro-forma letters will be treated as a single submission and only the first name to appear on the first page of the submission will receive correspondence in relation to the Advisory Committee.
30. DELWP will provide recommended conditions to be considered as part of any site specific planning control, should the Advisory Committee determine to recommend adoption of the site specific planning control.

## Process

### Pre-referral to Advisory Committee

31. Proponents, through DELWP, will submit their finalised proposals and relevant submissions to the Office of Victoria Government Architect (OVGA) for a Design Review. The OVGA will provide a design response within 5-10 business days that will be provided to all parties to each proceeding.
32. The Proponent will respond to any issues raised through the Design Review report and provide a final application to DELWP who will distribute to the parties.
33. The relevant Proponent, Council, DELWP, Fishermans Bend Taskforce, relevant agencies and the OVGA will meet to discuss the final application and prepare a short report that provides a statement of agreement and contentions, outlining the remaining issues in dispute.

### Referral to Advisory Committee

34. The proposal, 'statement of agreement and issues in dispute' and submissions will be referred to the Advisory Committee by letter from the Minister for Planning or delegate of the Minister for Planning.
35. The Advisory Committee will convene a round table or virtual forum using video conferencing or similar technology to discuss the issues in dispute.
36. Further submissions or evidence can be provided by any party to address the issues in dispute.

## **Submissions are public documents**

37. The Advisory Committee must retain a library of all documentation provided to it until a decision has been made on its report or five years has passed from the time of its appointment.
38. Any supporting documentation must be made available for public inspection until the submission of its report, unless the Advisory Committee specifically directs that the material is to remain in confidence.
39. All information may be made publicly available online where consent has been given.

## **Outcomes**

40. The Advisory Committee must produce a short written report for the Minister for Planning on each request for a site-specific planning control to facilitate a proposal or, where a round table or other forum is conducted.
41. The report is to provide a brief summary of the following:
  - a. The site-specific planning control and the proposal and submissions and evidence received.
  - b. The recommendations and rationale regarding resolution of issues in dispute through the site-specific planning control and its consistency with the Framework.
  - c. A copy of the site-specific planning control including recommended conditions to form part of the site specific planning control.
  - d. A list of persons consulted or heard.
42. The report will be publicly released at the discretion of the Minister for Planning.

## **Timing**

43. The Advisory Committee is required to commence its work within 10 business days after receipt of a referral for a proposal.
44. The Advisory Committee is required to submit its report in writing no later than 20 business days from the completion of the round table or other forum for each referred matter.

## Fee

45. The fee for the Advisory Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
46. The costs of the Advisory Committee will be met by the Department of Environment, Land, Water and Planning, who may ask the Proponent of any matter to meet those costs.



**Richard Wynne MP**  
**Minister for Planning**

**Date:** 29 / 04 / 2020

The following information does not form part the Terms of Reference.

### **Project Management**

- 1 Administrative and operational support to for the Advisory Committee will be through Amy Selvaraj, Senior Project Officer, of Planning Panels Victoria on 8392 5120, [planning.panels@delwp.vic.gov.au](mailto:planning.panels@delwp.vic.gov.au).
- 2 For matters regarding referral of proposals to the Advisory Committee and day to day liaison or questions on the proposed site specific controls, please contact Matt Cohen, Development Approvals and Design on 9637 9576, [fb.sac@delwp.vic.gov.au](mailto:fb.sac@delwp.vic.gov.au).