

APPENDIX 11 – FISHERMANS BEND STANDING ADVISORY COMMITTEE

I. FISHERMANS BEND STANDING ADVISORY COMMITTEE TERMS OF REFERENCE, METHOD AND PROCESS

- I.1 The Minister has appointed the Fishermans Bend Standing Advisory Committee (the Advisory Committee) 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.

Terms of Reference

- I.2 Paragraph 14 of the Terms of Reference (ToR), states the Advisory Committee's consideration of applications called in by the Minister before the approval of Amendment GC81 is subject to the proposal:
- Responding to local policy;
 - Meeting the requirements of the CCZ, the DDO and the PO **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
 - Making appropriate development contributions.
- I.3 Proponents will be encouraged, but not required to meet the requirement to be generally in accordance with the Fishermans Bend Framework (September 2018) and provide new roads and laneways.

Paragraph 18 states *'The advisory committee may inform itself in anyway it sees fit.'*

Paragraph 19 sets out matters the Advisory Committee must consider *'In assessing the appropriateness of a site-specific planning control to facilitate a proposal ...'* as follows:

- (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 departure 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.

Paragraph 20 directs that the Advisory Committee must not 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 and Process

- 11.4 The Minister 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 outlines within the ToR.
- 11.5 The Advisory Committee may meet and invite others to meet with it and may seek advice from experts.
- 11.6 DELWP is responsible for notifying Council and other relevant parties that may be affected, collecting submissions, and providing draft conditions.
- 11.7 The proponent must submit their finalised proposal and relevant submissions to the Office of the Victorian Government Architect (OVGA) for a Design Review. A copy of the OVGA response will be provided to all parties.
- 11.8 The proponent may then respond to any issues raised and provide a final application to DELWP who will distribute it to the parties.
- 11.9 The parties and relevant agencies will then meet to discuss the final application and prepare a short report that provides a statement of agreement and contention, outlining the issues in dispute.
- 11.10 The 'statement of agreement and issues in dispute' and submissions will be referred to the Advisory Committee who will then convene a round table or virtual forum to discuss the issues in dispute.
- 11.11 Further submissions or evidence can be provided by any party to address issues in dispute.
- 11.12 The Committee will prepare a report to the Minister, and the Minister will ultimately decide whether to approve the proposal.

A. Management of Aboriginal Cultural Heritage Found During Works

If Aboriginal places or objects found during works the following steps must be applied:

- The person who identified the find will immediately notify the person in charge of the activity.
- The person in charge of the activity must then suspend any relevant works at the location of the discovery and within 5 m of the relevant site extent and isolate the find via the installation of safety webbing, or other suitable barrier and the material to remain *in situ*.
- Works may continue outside of the 5 m barrier.
- The person in charge of works must notify the Heritage Advisor (HA) and the Secretary (AV) of the find within 24 hours of the discovery.
- The HA must notify the RAP(s) or other agreed Aboriginal stakeholder(s) within 24 hours of the discovery and invite RAP(s) or other agreed Aboriginal stakeholder(s) to inspect the find.
- Within 24 hours of notification, a HA is to attend the site and evaluate the find to determine if it is part of an already known site or should be registered as a new site and to update and/or complete site records as appropriate and advise on possible management strategies.
- Enable RAP(s) or other agreed Aboriginal stakeholder(s) to inspect site within 24 hours of notification and remove/rebury any cultural heritage material found.
- Within a period not exceeding three (3) working days the Sponsor, in consultation with the HA, RAP or other agreed Aboriginal stakeholder, shall, if necessary, apply for a Cultural Heritage Permit (CHP) in accordance with Section 36 of the *Aboriginal Heritage Act 2006*.
- If a CHP application is lodged, works may only recommence within the area of exclusion following the issue of a CHP and compliance with any conditions.
 - o When the appropriate protective measures have been taken;
 - o Where the relevant Aboriginal cultural heritage records have been updated and/or completed;

In the case of the discovery of human remains, separate procedures relating to the discovery of human skeletal remains must be adhered to (see below).

B. Custody and Management of Aboriginal Cultural Heritage Recovered

- Any Aboriginal cultural heritage recovered or salvaged from the activity area remains the property of the RAP(s) or other agreed Aboriginal stakeholder(s). Any such recovery or salvage will be agreed to and overseen by a RAP(s) or other agreed Aboriginal stakeholder representative(s). In any such instance it will be the responsibility of the Cultural Heritage Advisor to:
 - o Catalogue the Aboriginal cultural heritage;
 - o Label and package the Aboriginal cultural heritage with reference to provenance; and
 - o With the RAP(s) or other agreed Aboriginal stakeholder(s), arrange storage of the Aboriginal cultural heritage in a secure location together with copies of the catalogue and assessment documentation.

C. The Management of the Discovery of Human Remains

Although this evaluation has determined that there is only a low risk of impacting an Aboriginal burial during the implementation of the activity, given the nature of the landforms and archaeological deposits within the activity area, it is nevertheless an extremely important consideration of any development.