

Terms of Reference

Fishermans Bend Standing Advisory Committee

An advisory committee has been appointed pursuant to section 151 of the *Planning and Environment Act 1987* to advise on 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 may be considered for:

- 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 Chair and Deputy Chair.
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.

Purpose

5. The purpose of the Advisory Committee is to:
 - a. Advise the Minister for Planning on the suitability of site specific planning controls pursuant to clause 45.12 (in accordance with the scope of these Terms of Reference) to achieve particular land use and development outcomes for certain land within Fishermans Bend in advance of the 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 certain land within Fishermans Bend.

Background

6. Fishermans Bend is Australia's largest urban renewal project covering approximately 480 hectares of mainly industrial land (nearly three times the size of the Central Business District). The area spans two councils – the City of Melbourne and the City of Port Phillip. Fishermans Bend is one of several priority precincts identified in Plan Melbourne as playing a central role in accommodating significant 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 using his powers of exemption from notice provisions under section 20(4) of the *Planning and Environment Act 1987*.
8. On 3 October 2016, following extensive community consultation, the Minister for Planning released the *Fishermans Bend Vision – The next chapter in Melbourne's growth story, September 2016*.

9. In November 2016, while the Fishermans Bend Framework and permanent planning controls were being developed in accordance with the Vision, the Minister introduced interim planning controls as part of Planning Scheme Amendment GC50 (updated by GC59)
10. In October 2017, the Minister released the draft *Fishermans Bend Framework* following extensive stakeholder consultation. Proposed permanent planning controls in the form of draft Amendment GC81 were prepared to enable the realisation of the Vision and support the implementation of the Framework. In October 2017, the Minister established the Fishermans Bend Review Panel to advise on the appropriateness of the proposed permanent planning controls. On 23 December 2017, the Fishermans Bend Review Panel commenced its consideration of the proposed permanent planning controls. Hearings concluded on 22 June 2018.
11. On 19 December 2017 and then on 21 February 2018, the Minister for Planning called in a total of twenty six live applications for land use and development in Fishermans Bend both 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* (Applications).
12. Consideration of the Applications was deferred until the permanent planning controls for Fishermans Bend were approved. It was considered that the applications would impact on Fishermans Bend and raised major issues of policy.
13. Following the Minister's consideration of advice from the Fisherman's Bend Review Panel, 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*. Amendment GC81 introduced permanent planning controls into the relevant planning schemes, and included the final *Fisherman's Bend Framework, September 2018* as a reference document in those planning schemes. Included in those controls was the Infrastructure Contributions Overlay, which prevents a permit from issuing until an Infrastructure Contributions Plan (ICP) is incorporated into the scheme. Amendment GC81 did not include an ICP for Fishermans Bend, although the preparation of an ICP is underway.

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

14. The appointment of this Advisory Committee provides an opportunity for consideration of 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 DDO, the PO and the CCZ 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 above.

Land subject to new proposals

17. The appointment of this Advisory Committee provides an opportunity for consideration of 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 DDO, the PO and the CCZ; and

- c. making appropriate development contributions.
18. Proponents may prepare a site specific planning control to facilitate a proposal which responds to the permanent planning controls as set out in paragraph 17 above.

Scope

19. The Advisory Committee may inform itself in anyway it sees fit.
20. In assessing the appropriateness of a site specific planning control to facilitate a proposal, it must consider:
- a. The matters set out in sections 12 and 60 of the *Planning and Environment Act 1987*, the Planning Policy Framework, the Local Planning Policy Framework including the Municipal Strategic Statement and local planning policies.
 - b. The content, including the 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 Fishermans Bend Framework (September, 2018) compromises the objectives of the *Fishermans Bend Framework, September 2018*.
 - 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 Fishermans Bend Framework (September, 2018) or the requirements of the permanent planning controls set out in paragraphs 14 – 15.
 - 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 the Fishermans Bend Framework (September, 2018), and contributes to the objectives of the *Fishermans Bend Framework, September 2018*.
 - g. The Ministerial Direction outlining the 'Form and Content for Planning Schemes' approved under section 7(5) of the *Planning and Environment Act 1987* when drafting and/or reviewing site specific planning controls.
 - h. All relevant submissions and evidence regarding the site specific planning control to facilitate the proposal.
21. 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

22. The Minister for Planning may refer a proposal for which a site specific planning control is requested to the Advisory Committee for advice on the appropriateness of the site specific planning control to facilitate the proposal in accordance with the scope outlined within these Terms of Reference.
23. 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).
24. The Advisory Committee is expected to carry out a public hearing to consider a request for a site specific planning control to facilitate a proposal, except in circumstances set out in paragraph 37.
25. 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.
26. The Advisory Committee may seek advice from experts where it considers this is necessary.
27. The Advisory Committee may retain legal counsel to assist it.
28. Planning Panels Victoria is to provide administrative support as required.

Notice

29. 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.
30. 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.
31. 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.
32. 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.
33. 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

34. The Advisory Committee will provide an opportunity for any person who requests to be heard through the submission process to present to it. Submitters are not required to have formal representation at the hearing. Submitters may call evidence.
35. The Advisory Committee may limit the time of submitters appearing before it, using the following time frames as a guide:
 - a. Minister for Planning – 1 day
 - b. Local Council – 1 day
 - c. Proponent/Land Owner – 1 day
 - d. Agency or Statutory Authority – 3 hours
 - e. Community Group – 2 hours
 - f. Individual – 30 minutes
36. Where a submitter proposes to call evidence, it will be appropriate to allow additional time.
37. The Advisory Committee may at its discretion:
 - a. Conduct a hearing for two or more proposals concurrently.
 - b. Limit the time for presentation of evidence by witnesses.
 - c. Control cross examination of witnesses, including by prohibition of cross examination in appropriate circumstances.
 - d. Determine at a directions hearing that a full hearing is unnecessary for a site specific planning control to facilitate a proposal, where no objections or submissions are received, the proposal is in accordance with the planning controls introduced under Amendment GC81, including the Fishermans Bend Framework (September, 2018) and the proposal is supported by DELWP.

Submissions are public documents

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

Outcomes

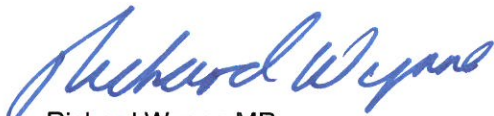
41. The Advisory Committee must produce a written report for the Minister for Planning on each request for a site specific planning control to facilitate a proposal or, where a hearing is conducted for multiple requests, each group of requests.
42. The report is to be produced following the conclusion of the public hearing and is to provide the following:
 - a. A summary of the site specific planning control, the proposal and all submissions received.
 - b. The Advisory Committee's recommendations regarding the site specific planning control and the proposal.
 - c. A summary of the Advisory Committee's reasons for its recommendations.
 - d. A copy of the site specific planning control including recommended conditions to form part of the site specific planning control.
 - e. A list of persons who made submissions considered by the Advisory Committee.
 - f. A list of persons consulted or heard.
43. The report will be publicly released at the discretion of the Minister for Planning.

Timing

44. The Advisory Committee is required to commence public hearings no later than two months after receipt of a referral for a proposal for which a site specific planning control is requested.
45. The Advisory Committee is required to submit its report in writing as soon as practicable but no later than 40 days from the completion of the hearing in relation to a referred request for a site specific planning control to facilitate a proposal.

Fee

46. 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*.
47. The costs of the Advisory Committee will be met by the Department of Environment, Land, Water and Planning.



Richard Wynne MP
Minister for Planning

Date:

5/10/18

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 Andrea Harwood, Senior Project Manager, of Planning Panels Victoria on 8392 5123, andrea.harwood@delwp.vic.gov.au