

TERMS OF REFERENCE FOR THE MINISTERIAL ADVISORY COMMITTEE OF THE FISHERMANS BEND PROJECT

INTRODUCTION

The Fishermans Bend Advisory Committee (Advisory Committee) was originally appointed on 19 July 2015 pursuant to section 151 of the *Planning and Environment Act 1987* (the Act) and subject to an initial Terms of Reference dated July 2015 (Terms of Reference no.1), to provide advice to the Minister for Planning in relation to the Fishermans Bend Urban Renewal Area.

The Advisory Committee has provided the Minister for Planning with its report for Stage 1 of the Fishermans Bend Project. In response to the report, in February 2016 the Government:

- committed to revising “the terms of reference for the Ministerial Advisory Committee and the Co-ordination Group” ... “to reinforce their roles with a best practice governance framework.”; and
- strengthened the governance arrangements of the Fishermans Bend Project by relocating the functions done by the Taskforce to a hub at the Department of Environment, Land Water and Planning, with the General Manager of the Taskforce reporting directly to the Secretary.

The Minister for Planning issues these amended Terms of Reference no.2 for the Advisory Committee, containing strengthened governance arrangements. These terms of reference set out the matters that the Advisory Committee is providing advice to the Minister on. The Terms of Reference no. 2 are confined to providing advice to the Minister about the next phase of the Project, to be described as the ‘Planning stage’ of the Fishermans Bend Project.

The Planning stage of the project will be delivered by the Fishermans Bend Taskforce. The role of the Taskforce includes, but is not limited to:

- preparing draft and final draft Plans;
- consulting with key stakeholders on those Plans and preparing the Amendment; and
- leading and conducting community consultation and engagement.

Appendix 1 sets out the key bodies with a role in the Fishermans Bend Project and their relationship.

DEFINITIONS

1. In these Terms of Reference:

- **Advisory Committee** means the Ministerial Advisory Committee for the Fishermans Bend Project.
- **Amendment** means an amendment to the relevant planning schemes required to implement the Project.
- **Councils** refers to the Councils of the City of Melbourne and the City of Port Phillip.
- **Chairperson** refers to the chair of the Ministerial Advisory Committee for the Fishermans Bend Project.

- **Department** refers to the Department of Environment, Land, Water and Planning (DELWP).
- **Fishermans Bend Project** or **Project** refers to the urban renewal project at Fishermans Bend.
- **General Manager** refers to the General Manager of the Taskforce who reports to the Secretary of the Department.
- **Member** means a member of the Advisory Committee and includes a reference to the Chairperson unless the contrary intention is expressed.
- **Minister** means the Minister for Planning.
- **Planning stage** of the Fishermans Bend Project refers to the development and delivery of draft final Plans and a draft Amendment to the relevant Planning Schemes by the Taskforce. The Planning stage of the Project does not include:
 - a) the initial stage of the Project to which the Terms of Reference no.1 applied to the Advisory Committee; or
 - b) any stages of the Project to be carried out after the development and delivery of the draft Plans and the draft Amendment to the relevant Planning Scheme by the Taskforce; or
 - c) the formal planning scheme amendment stage under Part 3 of the *Planning and Environment Act 1987*, or the delivery and implementation stages of the Project.
- **Plans** means the following plans:
 - a) Strategic Framework Plan;
 - b) Four Neighbourhood Precinct Plans;
 - c) Employment Precinct Plan;
 - d) Community Engagement Plan; and
 - e) Funding Plan (with Private and Public contribution components).
- **Report** means in relation to a Plan and the draft Planning Scheme Amendment, the consolidated set of the Advisory Committee's comments (as documented in the minutes of an Advisory Committee meeting) and any accompanying letter or coversheet, as more fully described in clauses 9 to 15.
- **Taskforce** means the Department's Fishermans Bend Taskforce.

ESTABLISHMENT, TENURE AND VARIATION

2. The Minister for Planning issues these amended Terms of Reference no.2 for the Advisory Committee for the Planning stage of the Fishermans Bend project, effective from the date on which they are signed.
3. The Minister may amend these terms of reference at any time.

4. The Chairperson may request an amendment to these Terms of Reference in writing, in which case the Minister will consider that request and will advise the Chairperson of his decision as to whether to amend the Terms of Reference or not.
5. The Minister may revoke these Terms of Reference in writing at any time and upon revocation of these Terms of Reference the Committee ceases to exist.
6. The Advisory Committee ceases to operate upon the occurrence of one of the following events (whichever is the earlier):
 - a) the date on which the Committee completes delivery of the outputs specified in clause 11 of this Terms of Reference; or
 - b) the date on which the Minister revokes these Terms of Reference.

GENERAL GUIDANCE

7. The Advisory Committee is subject to the general guidance of the Minister regarding the efficient and timely performance of its function under these Terms of Reference.
8. The General Manager of the Taskforce may provide the Advisory Committee with guidance to assist it with the efficient and timely performance of its function under this Terms of Reference.

FUNCTIONS AND OUTPUTS

9. The function of the Advisory Committee is to provide independent advice to the Minister regarding the Planning stage of the Fishermans Bend Project, which will be delivered by the Fishermans Bend Taskforce. The scope of this advice and the manner in which this advice will be provided is described in clauses 10 to 17 below.

Advice on draft Plans and draft Planning Scheme Amendment

10. To perform its function (as set out at clause 9 above) the Advisory Committee will provide advice:
 - a) about the following documents developed by the Taskforce:
 - the draft Plans and draft final Plans;
 - the draft Planning Schemes Amendment; and
 - b) to the Minister within a timeframe agreed by the Chairperson and the General Manager of the Taskforce and not more than six (6) weeks after the request for the advice is made.
11. The Advisory Committee will provide the advice referred to in clause 10 above in the manner set out below:
 - a) The Advisory Committee, in reviewing each of the draft and final draft Plans and the draft Planning Scheme Amendment, will record consolidated comments about those documents at an Advisory Committee meeting. These are to be provided to the General Manager for each draft Plan, for each final draft Plan, and for the draft Planning Scheme Amendment; and

- b) The consolidated comments must be recorded in the minutes of the Advisory Committee meeting and provided to the General Manager in accordance with the template that he will provide to the Advisory Committee; and
 - c) The Advisory Committee's consolidated comments (from the minutes of their meetings) on the draft Plans, draft final Plans and the Draft Planning Scheme Amendment will be collated by the Secretariat for the Advisory Committee and will be submitted to the Minister as reports containing the Advisory Committee's advice. There will be six reports. The Chairperson may prepare a letter or coversheet to accompany each report. This letter or coversheet may include comment to the Minister as to how the Taskforce has used or intends to use the input of the Advisory Committee.
12. Unless requested under clauses 15 and 16 below, the Advisory Committee is not required to undertake activities other than those referred to in clauses 10 and 11 above to perform its function under this Terms of Reference.
13. The Minister will determine whether a report of the Advisory Committee will be made available to the public and the form of any report to be made public. A report of the Advisory Committee will not require a public written response from the Government. The Chairperson will be informed of any decision to publish a report.
14. The Taskforce will finalise the draft final Plans and the proposed draft Planning Schemes Amendment documentation, taking into consideration feedback from Councils and the comments from the Advisory Committee provided during the Planning stage.

Additional advice and meetings with departmental staff or external parties

15. The Minister and/or the General Manager of the Taskforce may request that the Chairperson, the Advisory Committee or specific members of the Advisory Committee accompany the General Manager to meetings with departmental staff or external parties.
16. The General Manager of the Taskforce may request additional advice from the members of the Advisory Committee.

NOT IN SCOPE

17. When performing its functions under this Terms of Reference, the Advisory Committee:
- a) is not expected nor required to undertake consultation with the public or an independent engagement role itself. Members (including the Chair) may only meet with departmental staff or external parties on the request of the General Manager of the Taskforce, as set out in clause 15 above; and
 - b) will not seek submissions or conduct formal hearings; and
 - c) is not expected to conduct its own research.

MEMBERSHIP

18. The Advisory Committee will have a maximum of twelve (12) members appointed by the Minister in accordance with section 151(1) and (2) of the Act including:

- a) An independent Chairperson with experience and expertise in the Victorian planning system; and
- b) A maximum of six (6) experts in any of the following, to ensure the Advisory Committee has the necessary collective skills and expertise in:
 - Strategic planning, statutory planning and urban design;
 - Urban economics, urban renewal, value capture and development contributions;
 - Integrated transport planning;
 - Social planning and community infrastructure;
 - Environment and built heritage; and
 - Property development; and
- c) An elected representative of the City of Melbourne; and
- d) An elected representative of the City of Port Phillip; and
- e) Three community representatives who have links to the area and represent the broad interests of the community.

MEETINGS

19. Following consultation with the Chairperson, the General Manager will provide a list of key milestones and a project schedule of meetings to the Advisory Committee to enable it to:
 - a) provide timely comments to the General Manager at the key milestones of the Project; and
 - b) provide timely advice to the Minister under the Terms of Reference.
20. The project schedule should include an Advisory Committee meeting to review:
 - a) the draft and final draft versions of each Plan; and
 - b) the draft version of the Planning Scheme Amendment.
21. The Chairperson and the General Manager will meet at least monthly to review progress against key milestones and the Advisory Committee will adjust the schedule of meetings as necessary.
22. A meeting of the Advisory Committee is to be presided over by:
 - a) the Chairperson; or
 - b) in the absence of the Chairperson, a member elected by the members present at the meeting.
23. The Advisory Committee may meet when there is a quorum of at least 70% of the Advisory Committee members appointed for the time being.
24. The Advisory Committee will aim for consensus in its decision making. In the absence of agreement, the decision will be made by a majority of the members present at that meeting.

25. The Chairperson, or presiding member, must ensure, as far as practicable, that every member has adequate opportunity to participate in discussions.
26. Meetings of the Advisory Committee may be conducted in a manner determined by the Advisory Committee subject to the Act and these Terms of Reference.

MINUTES

27. The Chairperson must ensure that:
 - a) minutes of each meeting are kept;
 - b) minutes are circulated for comment by members before being formally adopted at the next meeting; and
 - c) the adopted minutes are provided to the General Manager of the Taskforce within 14 days of being adopted.

OBSERVERS

28. The Chairperson may invite any other person to participate in all or part of a meeting as an observer.
29. As a condition of attending a meeting, the Chairperson must require an observer to first agree to not:
 - a) disclose to any other person any confidential information provided to the observer at that meeting; and
 - b) misuse any information obtained by that observer at that meeting for personal or private gain or for political purposes.
30. An observer may have access to any relevant documents provided to members at a meeting, at the discretion of the Chairperson, but must return all documents at the end of that meeting.
31. If an elected representative of the City of Melbourne or the City of Port Phillip is not able to attend a meeting, the elected representative may nominate another person to attend the meeting on their behalf. The nominee has the status of an observer and may only disclose confidential information to the elected representative that he or she has been nominated by.

SCHEDULE 1

32. Schedule 1, which forms part of these Terms of Reference, sets out additional terms and conditions applicable to the Advisory Committee.

Dated 8/5/16



Hon. Richard Wynne MP

Minister for Planning

SCHEDULE 1 – Additional Terms & Conditions

SECRETARIAT SUPPORT

1. Administrative and project support to the Advisory Committee will be provided by the Secretariat, located within the Taskforce.
2. Day to day liaison between the Department and the Advisory Committee will be between the Chairperson and the General Manager of Taskforce or his nominee.
3. The Secretariat will organise meeting rooms, take minutes, distribute agendas and provide other administrative support. Agendas and draft minutes will be prepared in consultation with the Chairperson.
4. The Secretariat will assist in drafting reports and preparing meeting papers.
5. The Secretariat will disseminate information and papers to members in an efficient and effective manner.
6. Staff of other groups of the Department and relevant agencies, authorities and councils may also be requested by the Secretariat to provide technical assistance.

FEES AND EXPENSES

7. The fee for eligible members of the Advisory Committee (including the Chairperson) will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.
8. 'Eligibility' is determined in accordance with the Government's *Appointment and Remuneration Guidelines*.

DISPUTE RESOLUTION

9. The Committee must ensure that it has a dispute resolution policy in place that conforms with the Department's Model Dispute Resolution Policy (see <http://www.depi.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources/dispute-resolution>).

VACANCY

10. Upon a vacancy occurring in the office of a member, the vacancy may be filled by the Minister in accordance with these Terms of Reference.

CHANGE TO NOMINATED REPRESENTATIVE

11. The City of Melbourne or the City of Port Phillip may advise the Minister and any existing nominee, in writing, that it wishes to nominate a new representative. The existing nominee must immediately resign. A resignation letter is to be sent to the Minister.

CONFIDENTIALITY

12. Each Member is required to sign a deed of confidentiality at the time of appointment.

STANDARDS OF CONDUCT

13. Each Member must at all times act:
 - a) in accordance with the Code of Conduct made under the *Public Administration Act* 2004; and
 - b) in a manner that is consistent with the public sector values in section 7(1) of the *Public Administration Act* 2004.

CONFLICT OF INTEREST

14. The Committee must ensure that it has a process in place to deal with conflicts of interests that is consistent with the Department's Model Conflicts of Interest Policy.

GIFTS AND HOSPITALITY

15. The Committee must adopt a process that is consistent with the Department's Model Gifts, Benefits and Hospitality Policy (see <http://www.depi.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources/gifts-benefits-and-hospitality>).

INTELLECTUAL PROPERTY

16. The rights to intellectual property created by the members of the Committee in the course of their duties on the committee, including any reports required under these Terms of Reference, is the property of the State of Victoria. However, the Minister on behalf of the State grants the Committee a licence to use this property as authorised under these Terms of Reference.
17. In this clause "intellectual property" includes legal rights that protect the results of creative efforts including copyright, proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, confidential information (including trade secrets and know how), registered designs, circuit layouts, and all other proprietary rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields but does not include moral rights.

PRIVACY

18. The Committee must have processes in place to ensure that its members, in the course of their duties on the Committee, comply with the requirements imposed by or under the *Privacy and Data Protection Act 2014* as if the Committee is a public sector agency for the purposes of that Act.

Appendix 1 - Key bodies that have a role in the Fishermans Bend project

