Terms of Reference

Tarran Valley Rezoning Advisory Committee

Advisory Committee appointed under Part 7, Section 151 of the Planning and Environment Act 1987 to report on Amendment C36 to the Mount Alexander Planning Scheme, which seeks to facilitate the rezoning of land for a rural residential development.

Version: 9 dated 22 April 2015

Name
1. The Advisory Committee is to be known as the ‘Tarran Valley Rezoning Advisory Committee’.
2. The Advisory Committee is to have members with the following skills:
   a. Strategic and statutory planning,
   b. Environmental planning; and
   c. Bushfire planning and management.

Purpose
3. The purpose of the Advisory Committee is to consider:
   a. The appropriateness of Amendment C36 to the Mount Alexander Planning Scheme and provide advice to the Minister for Planning on whether the land at Crown Allotments 1-5, 5A, 5B, 6A, 7A, 13-14, 21-32, Section 1B, Parish of Maldon (the subject land) and its location, near Maldon, is suitable for rural residential development.
   b. Whether the subject land is an appropriate location for additional dwellings on new lots in rural residential settings given the objectives of the Planning and Environment Act 1987 and in particular:
      • to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;
      • to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
      • to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;
   and the consideration of State Planning Policy 13.05 (Bushfire) and the existing Bushfire Management Overlay objectives:
      • to assist to strengthen community resilience to bushfire.
      • to ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
      • to identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.
      • to ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.
without unacceptable compromise of flora and fauna and the consideration of Amendment C36 against current state planning policy, regional growth plan and local planning policy.
4. In particular, the Advisory Committee is to focus on:

- Whether the subject land can be practicably developed for rural residential development when considerations such as land capability, topography, hydrology, geotechnical, erosion management, landscape significance, servicing including reticulated services, access, vegetation removal, building envelopes, defendable space, bushfire hazard landscape assessment and a bushfire management statement for the subject land are generally considered;

- Whether within the broader landscape the subject land is appropriate for rural residential development noting the land is designated as a Bushfire Prone Area under the Building Regulations 2006 and as a Bushfire Management Overlay under the Mount Alexander Planning Scheme, and the significant bushfire hazard in the wider landscape;

- Whether the extent of vegetation removal, including native vegetation, is appropriate to facilitate the rural residential development;

- Whether the affected land is located in a special water supply catchment area under the Catchment and Land Protection Act 1994 and the appropriateness of locating a rural residential development in such an area;

- Whether a rural residential development on the subject land would affect the heritage significance of Maldon and the adjoining Maldon Historic Reserve; and

- Whether the rural residential development would affect any landscape values in the wider landscape, including areas or features and significant views.

Background

5. The amendment proposes to rezone approximately 125 hectares of land approximately 2.5 kilometres south-east of Maldon on the north side of the Castlemaine-Maldon Road, from Farming Zone to Rural Living Zone. Essentially, the amendment would facilitate a rural residential development of 42 lots ranging in size from 1.0 to 22.8 hectares.

6. The site is located in a high bushfire risk landscape, the topography is undulating and native vegetation covers 73 per cent of the site. The site connects to surrounding bushland on private land and Crown land, including the Maldon Historic Reserve to the north, east and south.

7. The amendment was authorised on 26 March 2007 and exhibited between 17 May and 22 June 2007, attracting 30 submissions.

8. The panel hearing was held from 8 to 10 December 2008 to consider the submissions. The proponent, Mount Alexander Shire Council (council) and five submitters presented to the Panel. No agencies presented to the Panel.

9. The panel report was received in January 2009 and recommended that council adopt the amendment, subject to changes.

10. On 7 February 2009 major bush fires, known as Black Saturday, had a major impact in Victoria.

11. The amendment was adopted by council on 10 March 2009.

12. On 2 February 2010, the former Minister for Planning deferred a decision on the amendment until the 2009 Victorian Bushfires Royal Commission final report had been released.

14. New bushfire planning provisions were introduced into all Victorian planning schemes via Amendment VC83 on 18 November 2011.

15. In response, the amendment proponent submitted a bushfire assessment and net gain analysis. In November 2012, the report was circulated to council, the Country Fire Authority (CFA) and the former Department of Sustainability and Environment (DSE). On 7 March 2013, an additional letter from the former DSE was received expressing concern about the conditions proposed by the CFA and advising that DSE would not support the higher level of native vegetation removal.

16. On 2 July 2013, the former Minister for Planning, by letter of referral dated 2 August 2013, sought the advice of the Bushfire Management Overlay Standing Advisory Committee on:

- Whether the location of the site is appropriate for rural living development given the significant bushfire hazard in the wider landscape.

17. The Minister also sought other advice on fire management regime, its long term viability, conservation and long term management of surrounding bushland if the Standing Advisory Committee was satisfied that the location is appropriate.

18. A directions hearing was held on 13 March 2014, the hearing was held on 7 and 8 May 2014 and the Advisory Committee submitted its report to the Minister on 12 June 2014. Council, the CFA and the former Department of Environment and Primary Industries presented to the Standing Advisory Committee.


**Method**

20. The Advisory Committee may apply to vary these Terms of Reference in any way it sees fit prior to submission of its report.

21. The Advisory Committee may inform itself in anyway it sees fit, but must consider all relevant matters to the subject land and proposed Amendment C36, including but not limited to:

- Relevant provisions of the Planning and Environment Act 1987 and the Mount Alexander Planning Scheme, including Clause 13.05 of the State Planning Policy Framework;


- The Mount Alexander Planning Scheme Amendment C36 Tarran Valley Maldon panel report dated January 2009;

- The Bushfire Management Overlay Standing Advisory Committee Report on Amendment C36 to the Mount Alexander Planning Scheme;

- The relevant commentary and the accepted recommendations of the Final Report of the 2009 Victorian Bushfires Royal Commission;

- The relevant parts of the State Bushfire Plan 2012;

- Relevant municipal fire management plan(s);
• All relevant material prepared by or for the proponent; and
• The views of the proponent, council, departments, authorities and any other interested party.

22. The Advisory Committee must consider all relevant submissions.

23. The Advisory Committee is expected to carry out a public hearing.

24. The following parties should be asked to present to the Advisory Committee:
   • The proponent;
   • Mount Alexander Shire Council;
   • Emergency Management Victoria
   • Country Fire Authority;
   • Department of Environment, Land, Water & Planning;
   • Parks Victoria;
   • Goulburn Murray Water
   • North Central Catchment Authority;
   • Coliban Water;
   • Heritage Victoria; and
   • Any other interested parties.

25. The Advisory Committee is bound by the rules of natural justice.

26. The Advisory Committee may regulate its own proceedings, including:
   • The Advisory Committee may meet and invite others to meet with them when there is a quorum of at least two Committee members.
   • The Advisory Committee may limit the time of parties appearing before it.
   • The Advisory Committee may prohibit or regulate cross-examination.

Submissions are public documents

27. The Advisory Committee must retain a library of any written submissions or other supporting documentation provided to it directly until a decision has been made on its report or five years has passed from the time of its appointment.

28. 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’.

Outcomes

29. The Advisory Committee must produce a written report, and submit it to the Minister for Planning, consistent with paragraphs 3 and 4, which includes but is not limited to:

   • An assessment of the appropriateness of the provision of additional rural residential development in Maldon and its environs and the appropriateness of rezoning the subject land in light of the Planning and Environment Act 1987 and the Mount Alexander Planning Scheme provisions;
• Whether the amendment prioritises the protection of human life over other policy considerations in planning and decision-making and applies the precautionary principle to planning and decision-making where appropriate when assessing the risk to life, property and community infrastructure from bushfire as identified in the Overarching strategies of Clause 13.5 of the planning scheme;

• An assessment of submissions to the Advisory Committee;

• Any other relevant matters raised in the course of the Advisory Committee hearings;

• A list of persons who made submissions considered by the Advisory Committee;

• A list of persons consulted or heard.

Timing

30. The Advisory Committee is required to complete its hearings no later than 40 business days from the date of its appointment.

31. The Advisory Committee is required to submit its report in writing as soon as practicable but no later than 40 business days from the completion of its hearings.

Fee

32. 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.

33. The costs of the Advisory Committee will be met by the Department of Environment, Land, Water & Planning.

Project Manager

34. Day to day liaison for the Advisory Committee will be through Greta Grivas, Senior Project Officer, Planning Panels Victoria on 8392 6393 and email greta.grivas@delwp.vic.gov.au

35. Administrative and operational support to the Committee will be provided by Robert Rorke of the Department of Environment, Land, Water & Planning on ph. 4433 8000 or by email at robert.rorke@delwp.vic.gov.au.

Hon Richard Wynne MP
Minister for Planning

Date 28/6/15