Land Use Terms Advisory Committee

Version: 14 December 2017

Advisory Committee appointed pursuant to Part 7, section 151 of the Planning and Environment Act 1987 to review and recommend improvements to land use terms and their definitions in Clause 74 of the Victoria Planning Provisions (VPP).

Name
The Advisory Committee is to be known as the 'Land Use Terms Advisory Committee'.
1. The Advisory Committee is to have two members with the following skills:
   - Expert knowledge and experience of the operation of the VPP and planning schemes.
   - Expert knowledge and experience of statutory drafting.
   - Legal expertise about the operation of land use definitions in the planning system.

   The Advisory Committee may seek additional expertise as required.

Purpose
2. The purpose of the Advisory Committee is to review and recommend improvements to land use terms and their definitions in Clause 74 of the VPP.

3. The Advisory Committee is to provide advice and present its findings and recommendations on the following matters:
   - Principles and business rules for including land use terms in Clause 74.
   - Existing land use terms in Clause 74 that should be removed or modified.
   - New land use terms that should be included in Clause 74.
   - Legal and practical implications of any recommended changes to land use terms and their definitions. These include:
     - existing use rights implications
     - consequential changes to the VPP (such as changes to zone land use tables, general terms and nesting diagrams)
     - potential impacts on users of the planning system.
   - With regard to the identified legal and practical implications, a recommended approach to implement the proposed changes.

4. The Advisory Committee is not expected to:
   - Review land use terms which are currently under consideration by the Department of Environment, Land, Water and Planning (DELWP) through other projects.
   - Review land use permissions in zones, with the exception of identifying and having regard to the consequential impacts of proposed changes in land use terms on the functioning of zones.
   - Recommend changes that would have major implications for the operation and purposes of the existing zones.
• Review Clause 72 (General Terms), unless there is a consequential change that flows from a change to a land use term.

Background

5. The Government has initiated the Smart Planning program to reform and modernise the Victorian planning system. The aim of the Smart Planning program is to increase the effectiveness and efficiency of the operation of planning schemes. As part of that program, a discussion paper (Reforming the Victoria Planning Provisions: A discussion paper) was released in October 2017 and comment sought on a range of proposals to improve the system. Proposal 5.2 of the discussion paper is to review and update the land use terms section of the VPP.

6. The objectives of Proposal 5.2 are:
   • Increase use of everyday terms that the community understands.
   • Remove or modernise obsolete terms and provide for new or emerging land uses.
   • Distinguish between similar land uses where treated differently in land use tables.
   • Remove unnecessarily specific terms and broaden terms, where appropriate.
   • Provide definitions for undefined terms where appropriate (except for terms that are sufficiently captured by an ordinary dictionary meaning or defined in the Act).

Method

7. The Advisory Committee may inform itself in any way it sees fit, but must consider the following:
   • The objectives of the Smart Planning program generally, with particular regard to the need to simplify the planning scheme.
   • The planning policy principles and objectives, and rational underpinning the VPP’s definition system (including the operation of Clause 74) and individual land use terms and their definitions, including:
     - A User’s Guide to the new standard terms and definitions for planning schemes in Victoria (September 1996); and
   • The objectives of Proposal 5.2 in Reforming the Victoria Planning Provisions: A discussion paper.
   • All relevant submissions in relation to land use terms received DELWP as part of the consultation for the Smart Planning program.
   • The submissions and other contributions received through the project methodology outlined below.

8. The Advisory Committee is to conduct the review generally according to the following methodology:
   • Preparation of a concise discussion paper that sets out the scope of the review, the role of land use terms in the planning system, proposed principles for drafting land use terms and definitions, a summary of the issues and suggestions received through Smart Planning consultation so far and a description of how to participate in the submission process to be conducted by the Advisory Committee.
   • An on-line submission process designed to allow submitters to identify specific land use terms for deletion, modification or inclusion, to explain the reasons and to also make general comments. This should make it clear that the only changes to the zones that can be considered are consequential changes to land use tables that flow from new, modified or deleted land use terms.
• Consideration of submissions and other investigation as necessary,
• Preparation of a final report as set out in paragraph 16.

9. The following parties should be invited to make submissions to the Advisory Committee:
   • All councils.
   • Organisations represented on the Smart Planning Reform Advisory Group.
   • Referral authorities and government agencies which interface with the planning system.

   A general invitation for submissions should also be made through the Planning Matters newsletter. DELWP will provide assistance with identifying relevant contact details.

10. The Advisory Committee is to consult with relevant DELWP Planning Group representatives including from Planning Systems, Statutory Planning Services and the Smart Planning program.

11. Public hearings are not required. The Advisory Committee may conduct targeted consultation to explore the issues or other matters, including up to two workshops or forums. The Advisory Committee may meet and may invite others to meet with them.

12. The Advisory Committee may apply to vary these Terms of Reference in any way it sees fit before submitting its report.

Submissions are public documents

13. The Advisory Committee must retain a library of any 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.

14. A copy of all submissions is to be provided to the DELWP's Planning Group.

15. Any 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'.

Final report

16. The Advisory Committee must produce a written report that includes the following:
   • A response to the 'Purpose' of the Terms of Reference.
   • A summary and assessment of submissions to the Advisory Committee.
   • Any other relevant matters raised in the course of the Advisory Committee’s consultations.
   • Prioritised recommendations which clearly identify:
     - Changes which can be implemented immediately because they are relatively uncomplicated, or policy-neutral.
     - Changes with more significant consequential impacts which can be implemented in the short-medium term.
     - Potential longer-term changes which would benefit from further review or consultation.
   • A list of persons and organisations that made submissions, attended a workshop, met with or otherwise informed the Advisory Committee's advice, findings and recommendations.

Timing

17. The Advisory Committee must provide a discussion paper for further consultation no later than 20 business days from the date that Planning Panels Victoria is formally notified of the Committee’s appointment.

18. A period of 4 weeks is to be provided for submissions to be made to the Advisory Committee and for the Advisory Committee to conduct other targeted engagement.
19. The Advisory Committee must submit its final report as soon as practicable but no later than 15 business days from the conclusion of the consultation period.

20. The Advisory Committee is to report no later than 13 April 2018.

Fee

21. 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.

22. The costs of the Advisory Committee will be met by DELWP’s Smart Planning program.

Richard Wynne MP  
Minister for Planning  

Date: 21/02/17

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

Project Management

1. Administrative and operational support to the Committee will be provided by Greta Grivas, Planning Panels Victoria, on 8392 5121 or greta.grivas@delwp.vic.gov.au

2. The departmental contact person will be Tim Westcott, Smart Planning program, on 8392 5541 or tim.westcott@delwp.vic.gov.au.