Yarra River Protection Ministerial Advisory Committee
Terms of Reference

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VICTORIA State Government
INTRODUCTION

1. The Yarra River is a highly valued natural asset that defines Melbourne’s liveability and provides a variety of cultural, environmental, social and economic benefits to Victoria.

2. The Yarra River runs for approximately 242 km from its source in the Yarra Ranges National Park, through the Yarra Valley to its mouth at the head of Port Phillip in Newport. It traverses a variety of urban, semi-rural, rural and pristine wilderness landscapes and 11 municipalities (Banyule, Baw Baw, Boroondara, Hobsons Bay, Melbourne, Manningham, Maribyrnong, Nillumbik, Stonnington, Yarra and Yarra Ranges).

3. The responsibility for managing the Yarra River and the land and tributaries in its catchment rests with several public bodies including the Secretary, Department of Environment, Land, Water and Planning, Parks Victoria, Melbourne Water, Port Phillip and Westernport Catchment Management Authority and the 11 municipalities. Committees of management, non-government bodies and many private sector interests also play a role in, and value, the Yarra River (e.g. Port of Melbourne Corporation, Yarra Riverkeepers Association, and the Yarra River Business Association).

4. The Victorian Government has committed to introduce a Yarra River Protection Bill and to establish a trust to protect the Yarra River from inappropriate development and promote its amenity and significance. The Government is also committed to improving the health of waterways, catchments and riparian environments, including the Yarra River and its catchment.

5. The Government is introducing strengthened planning controls to protect parts of the lower and middle sections of the Yarra River from immediate development pressure. The Department is working with the 11 councils to ensure the amended planning controls will achieve the best outcomes for development along the Yarra River corridor.

6. All of Melbourne’s rivers and waterways are highly valued assets to the state. Melbourne’s other iconic waterway - the Maribyrnong River, and other significant waterways will be improved and protected from inappropriate development in the future.

7. The Government is establishing this Committee to provide assistance in engaging with the community and other stakeholders and to provide advice and a recommended action plan for the improved management, promotion and protection of the Yarra River.

8. It is anticipated that to protect the Yarra’s significance and amenity and help it recover from previous and ongoing land use impacts, the following problems need to be addressed:

   (a) Private land holdings and development intruding and encroaching along the banks of the Yarra River diminish the public's experience of an iconic river.

   (b) Unacceptable and increasing levels of polluted water and substantially altered flow regimes in the Yarra River catchment threaten environmental health.

   (c) Complex institutional and regulatory arrangements may be one of the barriers to addressing these problems.

DEFINITIONS

9. In these Terms of Reference—

   Committee means the Ministerial Advisory Committee for the Yarra River;

   Codes of Conduct mean – the Directors’ Code of Conduct and Guidance Notes issued by the Victorian Public Sector Commission (published at –
**Department** means the Department of Environment, Land, Water and Planning;

**DPC Guidelines** means the Appointment and Remuneration Guidelines for Victorian Government Boards, Statutory Bodies and Advisory Committees issued by the Department of Premier and Cabinet (published at-

**Key Issues and Opportunities** means the key issues and opportunities set out in paragraph 17 of these Terms of Reference;

**Melbourne Water** means Melbourne Water Corporation established under Schedule 1 of the Water Act 1989;

**Member** means a member of the Committee and includes a reference to the chairperson unless the contrary intention is expressed;

** Ministers** mean the Minister administering the Planning and Environment Act 1987 and the Minister administering the Water Act 1989;

**PA Act** means the Public Administration Act 2004;

**Project Control Board** means the group of executive directors selected from the Planning Group, the Water and Catchments Group, the Local Infrastructure Group and the Land, Fire and Environment Group of the Department to govern the Yarra River Project;

**Public sector employee** has the meaning given in section 4(1) of the PA Act;

**Referral authority** includes a determining referral authority and a recommending referral authority and each of these terms has the meaning given in section 3 of the Planning and Environment Act 1987;

**Secretariat** means the group of Departmental staff described in paragraph 68;

**Secretary** means the body corporate established by section 6 of the Conservation, Forests and Lands Act 1987;

**Yarra River** means the River Yarra Yarra;

**Yarra River corridor** means all the bed, soil and banks of the Yarra River and all land that abuts the Yarra River or is within 20 metres of the upper lip of the banks of the Yarra River;

**Yarra River catchment** means the area which, through run-off or percolation, contributes to the water in the Yarra River and all its tributaries.

**ESTABLISHMENT OF MINISTERIAL ADVISORY COMMITTEE**

10. The Ministers establish a ministerial advisory committee, to be known as the Yarra River Protection Ministerial Advisory Committee, effective from the date of these Terms of Reference.

**FUNCTIONS AND ACCOUNTABILITIES**

11. The functions of the Committee are to –

(a) produce a written discussion paper for public comment on the Key Issues and Opportunities;

(b) assist the Department in engaging with relevant agencies, councils, members of the community and other stakeholders on the discussion paper;
(c) oversee the collation of evidence and data from relevant persons and agencies on the Key Issues and Opportunities, as needed, for the discussion paper and report to the Ministers; and

(d) provide to the Ministers a report with advice and findings on the Key Issues and Opportunities, a recommended action plan and a strategic framework which sets out a vision for the Yarra River, and any other matters the Ministers request in writing or that the Committee thinks fit to include.

12. All outputs must be provided by the dates agreed with the Project Control Board.

13. The Committee is subject to the general direction of the Ministers regarding the performance of its functions and meeting these Terms of Reference.

14. The Committee is subject to the general direction of the Project Control Board for how and when it performs its functions.

15. Members must work collaboratively with the Secretariat, the Project Control Board and the Department to produce the outputs.

16. Members must be respectful of all views, engage in a constructive manner and genuinely seek the best outcomes.

KEY ISSUES AND OPPORTUNITIES

17. The Committee is required to address the following matters:

Defining the Issues

(1) What are the current and emerging issues for the Yarra River that are impacting on its environmental cultural, social and economic values?

Institutional and regulatory arrangements

(2) In relation to the statutory bodies with powers and functions affecting or relevant to the Yarra River –

(a) What are the existing powers and functions of these statutory bodies?

(b) What opportunities are there to improve these powers and functions to address the issues for the Yarra River?

(3) What are the options and net benefits for establishing an entity, including a statutory trustee, to contribute to the management, promotion and protection of the Yarra River?

(4) What would be the role, power and functions of any entity and/or trust for the Yarra River?

Land use planning and development

(5) In relation to the referral of planning applications –

(a) Are the relevant criteria and powers of referral authorities sufficient to address land developments that affect the Yarra River?

(b) Are there other matters of concern or other statutory bodies that should be included in the referral process?

(6) What other changes to land development controls would further improve the health of the Yarra River and its tributaries and improve the net benefits that the Yarra River can provide to the community?
General

(7) Which of all these issues and opportunities are of greatest priority and, if addressed, would achieve the greatest net economic, social and environmental benefits for the community today and for future generations?

(8) What other strategies and measures are needed to ensure all the benefits and opportunities for the Yarra River can be realised or achieved in a cost effective manner?

(9) Does the Committee have any advice or findings that would benefit the Maribyrnong River and the community?

TIMEFRAME

18. The Committee operates for 9 months from the date on which it is established or such earlier date on which the Ministers abolish the Committee.

MEMBERSHIP

19. The Committee consists of up to five members appointed by the Ministers, one of which is the chairperson.

20. A member of the Committee is appointed by the Ministers for the term of office specified in his or her instrument of appointment.

21. The Committee is to be constituted by members who collectively have knowledge, skills and experience in institutional governance, natural resource and water management, social science and economics, planning, land development, local government and stakeholder engagement.

22. During the term of his or her appointment, a member must immediately notify the Secretariat in writing if there is a material change in his or her circumstances relevant to the matters set out in paragraph 24 or described in his or her written declaration of conflicts of interest.

23. Each member must sign a deed of confidentiality at the time of appointment.

CONFLICTS OF INTEREST AND OTHER STANDARDS OF CONDUCT

24. Except as approved by the Ministers, each member must not have, and must be independent of any person or body with—

(a) statutory powers or functions for the management or protection of the Yarra River or its tributaries or catchment;

(b) a private or commercial interest relating to land or activities in the Yarra River corridor;

(c) a private or commercial interest in development of land in the Yarra River catchment.

25. Each member of the Committee must at all times act—

a) in accordance with the Code of Conduct; and

b) in a manner that is consistent with the public sector values in section 7(1) of the PA Act.

26. The Committee must ensure that processes are in place to deal with conflicts of interests that—

(a) apply to both financial and non-financial interests; and

(b) require full disclosure of interests at meetings of the board and the recording of the disclosure in the minutes of the meeting.

28. A member who has a direct pecuniary or private interest in a matter being discussed at a meeting of the Committee must declare the nature of the interest and the potential for there to be a conflict:

   (a) at the commencement of a meeting; or

   (b) if they become aware of an interest during discussions, as soon as possible after becoming aware of the interest.

29. A member who has made a declaration of a potential conflict of interest may not be present or take part in any discussion of the matter to which the declaration relates unless the Committee agrees otherwise.

30. A member who has made a declaration of a potential conflict of interest must not vote on the matter to which the declaration relates.

31. The chairperson or member presiding at a meeting at which a declaration of an interest is made must cause the declaration to be recorded in the minutes of the meeting.

32. The chairperson must keep a record of declared interests. Any member may request and be granted access to this Register of Interests.

**CHAIRPERSON**

33. The Ministers must appoint one of the members to be the chairperson.

34. The chairperson must provide leadership and oversee the performance of the Committee’s functions and delivery of its accountabilities.

35. The chairperson must approve the agenda and minutes of meeting prior to circulation to members and other meeting attendees.

**REMNUNERATION & EXPENSES**

36. Subject to clause 38 of these Terms of Reference, a member is entitled to receive remuneration for their service on the Committee as set out in their instrument of appointment.

37. A member of the Committee standing for election must comply with the requirements of section 79(4) of the PA Act, as if the member is a director of a public entity, and the Committee is a public body and the board of a public body for the purposes of that section.

38. A member who is a public sector employee is only eligible to be paid remuneration as determined in accordance with the DPC Guidelines.

39. No additional remuneration is payable to a member for time spent in preparation for meetings of the Committee.

40. A member (including the chairperson) is entitled to be reimbursed for reasonable travel and personal expenses related to their service on the Committee, at the rates that apply to employees of the Department.

41. To enable members to claim remuneration and expenses, Members must complete the Department’s Commencement Form and Claim Form.

42. The costs of the Committee will be met by the Department.
REMOVAL FROM OFFICE AND VACANCIES

43. The Ministers may remove a member from office by notice in writing, at any time and for any reason or for no reason at all.

44. The office of a member becomes vacant if –
   (a) a member resigns in writing addressed to any one of the Ministers;
   (b) The Ministers remove a member from office by notice in writing;
   (c) a member dies or, in the opinion of the Ministers, becomes incapable of performing his/her duties; or
   (d) a member becomes a bankrupt or a person disqualified from acting as a director or acting in the management of a company.

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

MEETING PROCEDURE

46. Meetings of the Committee may be conducted in a manner determined by the chairperson subject to these Terms of Reference or any direction given by the Project Control Board.

47. A quorum for a committee meeting consists of at least 2 members (for a committee of 3 or 4 members) or of at least 3 members (for a committee of 5 members).

48. The Committee must aim to make decisions by consensus. If the Committee is unable to achieve consensus, a decision of the Committee must be made by a majority of the members present at a meeting.

49. If the chairperson is absent, or the office of chairperson is vacant, the members present at a meeting may elect from the members present a member to preside at that meeting.

50. The chairperson, or presiding member, must ensure, as far as practicable, that every member has adequate opportunity to participate in discussions.

51. At the commencement of each meeting, the chairperson must enquire of all members whether there is any potential for a conflict of interest to arise in respect to any item on the meeting agenda or any matter to be discussed and an interest held by a member.

52. A list of scheduled meetings times will be prepared by the Secretariat and approved and distributed by the chairperson of the Committee.

53. Minutes will be taken by the Secretariat and distributed to members of the Committee.

MINUTES

54. The chairperson must –
   (a) ensure that minutes of each meeting are kept;
   (b) circulate the minutes for comment by members before being formally adopted at the next meeting; and
   (c) provide the adopted minutes to the Project Manager of the Secretariat within 14 days of being adopted.

GIFTS AND HOSPITALITY

55. The Committee must ensure that it has a gifts and hospitality policy in place that conforms to the Department’s Model Gifts, Benefits and Hospitality Policy (see

DISPUTE RESOLUTION

56. The Committee must ensure that it has a dispute resolution policy in place that conforms to 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).

OBSERVERS AND ADVISORS

57. Members of the Project Control Board and the Secretariat may attend meetings of the Committee except when the Committee decides to meet in private.

58. The chairperson may invite any other person to participate in all or part of a meeting and workshop.

59. As a condition of attending a meeting, the chairperson may require an invitee to first sign a deed of confidentiality.

60. Department staff with the Secretariat or Project Control Board and other invitees to a Committee meeting may not vote in the Committee’s deliberations.

TIME COMMITMENT

61. The Committee is expected to meet approximately every 4 weeks.

62. Members are expected to attend a minimum of 80% of meetings.

63. Members are also expected to conduct consultation meetings with the members of the community and stakeholders.

CONFIDENTIALITY AND OTHER DUTIES OF MEMBERS

64. The Project Control Board may authorise the Committee to release specified information to third parties or the public.

65. On the termination or expiry of a member’s appointment, the member must return all documents relating to the Committee to the chairperson.

INTELLECTUAL PROPERTY

66. The rights to intellectual property created by the members of the Committee in the course of their duties on the committee, including any papers and 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. 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.

INSURANCE

67. It is the responsibility of each member to ensure that he or she maintains adequate insurance in relation to their activities as a member of the Committee.
SECRETARIAT SUPPORT TO THE COMMITTEE

68. The Committee will be provided with administrative and technical support by Department staff from the Planning Group and Water and Catchments Group.

69. The Secretariat will organise meeting rooms, take minutes, distribute agendas and provide other administrative support.

70. The Secretariat will assist in drafting reports and preparing meeting agendas and papers. Agendas and draft minutes will be prepared in consultation with the Chairperson.

71. The Secretariat will disseminate information and papers to members in an efficient and effective manner.

72. Staff of other groups of the Department and relevant agencies, authorities and councils may also be requested by the Secretariat to provide technical assistance.

AMENDMENTS AND REVOCATION

73. The Ministers may amend these Terms of Reference at any time.

74. Any amendments take effect when they have been given in writing to the Chairperson.

75. The Ministers may revoke these Terms of Reference in writing at any time and upon revocation of these Terms of Reference the Committee ceases to exist.

PRIVACY

76. 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.

PUBLICATIONS

77. All outputs must be suitable for a public audience.

78. In consultation with the Committee, the Department will desktop publish all material to ensure it is in keeping with the broader work program. This includes determining the art work and photography, and undertaking editing for public consumption purposes.

RELATIONSHIP WITH OTHER PROJECTS

79. The Committee will be required to carry out its work at the same time as a number of other related government projects. These include the Water Plan, review of the State Environment Protection Policy (Waters of Victoria) the Environment Protection Authority review, Coastal Management Review, Plan Melbourne Refresh, Lower Yarra River Use Future Directions and other projects, as advised by the Project Control Board.

80. The Secretariat will advise the Committee at its first meeting of the projects to which this requirement applies.

81. The Committee must ensure that its management of consultations with members of the community and other stakeholders is co-ordinated or consistent with the management and needs of these other projects.
NOT IN SCOPE

82. The Committee is not required to include in the discussion paper, undertake stakeholder consultation or prepare advice or a recommended action plan or recommended vision for the following issues or areas:

(a) the regulation of commercial boat operations, berths and related services;
(b) the regulation and promotion of on-water activities; and
(c) Port of Melbourne waters.

REPORTING REQUIREMENTS

83. The chairperson of the Committee will report on the Committee's progress and submit outputs to the Project Control Board.

Dated 10/12/2015

Hon. Richard Wynne MP
Minister for Planning

Hon. Lisa Neville MP
Minister for Environment, Climate Change and Water