

## STATEMENT OF REASONS - DIRECTIONS

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### Background

On Thursday 29 March 2018, Mr Canavan QC, acting for various landholders requested the Review Panel to make a ruling on paragraph 2 of the Supplementary Submission to the Minister's Part B Submission (Document 151) that "...the role of the Review of Panel is not to review the Vision".

The Chair directed Mr Canavan to put his request in writing. This was provided on the same day (Document 160).

Document 160 stated:

*The submitters for whom we act request a ruling from the Review Panel as soon as practicable on the submission made in paragraph 2 of the Supplementary Submission to the Minister's Part B Submission (Document 151) that "...the role of the Review of Panel is not to review the Vision".*

*The submission of the City of Port Phillip at paragraph 3<sup>1</sup> also notes that "in this regard that the Vision is not the subject of the Review Panel's task as part of Terms of Reference."*

*The ruling is sought on the basis that the submission on their face*

- a) precludes review of the strategic basis of the 80,000 population target contained in the Vision; and*
- b) raises serious issues in relation to the Minister's appointment of this Review Panel and its proceeding.*

On 4 April 2018, Harwood Andrews for the Minister for Planning provided a written response to this request (Document 171).

On 9 April 2018, the Chair noted the above, and invited parties if they wished to provide any further comments. None did, although the Review Panel notes the submissions of Mr Montebello for the City of Port Phillip in his addendum to Document 182 at paragraphs 4 to 9.

The Chair informed parties that the Review Panel would consider the matter and advise of its position that afternoon.

### Position of the Review Panel

Later on 9 April 2018, the Chair advised as follows:

*The Review Panel would not be making any direction or findings in relation to the request of Mr Canavan at this stage of the Hearing. The Review Panel is interested to hear remaining submissions and evidence on the issue, which will form part of its overall considerations and findings in finalising its report to the Minister for Planning.*

Mr Canavan requested reasons in writing. The following are the reasons.

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<sup>1</sup> Document 109a.

## Reasons

The *Planning and Environment Act 1987* sets out the powers and obligations of an Advisory Committee<sup>2</sup>. In addition to these powers and obligations, the Review Panel has a range of tasks to complete under its Terms of Reference before submitting its report to the Minister.

Before submitting its report to the Minister, it is open to the Review Panel under Term 15 to apply to vary its Terms of Reference in any way it sees fit before submitting its report(s).

The Terms also provide that the Review Panel will provide an opportunity to be heard to any person who requests to be heard through the submission process to present to it<sup>3</sup>. That is what the Review Panel has done and intends to continue to do.

The Review Panel provided a list of issues that it sought further feedback and responses to at the first Directions Hearing on 20 December 2017 (Document 20). That document noted:

*This is a preliminary list of key issues identified by the Review Panel from the material provided to date and the submissions received. These are provided on a without prejudice basis and should not be read as an opinion of the Review Panel.*

Included in that document was a section on 'Population assumptions and targets', which noted five questions to be further explored, two of which were:

- 3. To what extent does the planning of the area need to plan for a target population?**
- 4. What is the basis of the assumed 80,000 target population and the 80,000 jobs? Should a different target be set?**

The Review Panel directed that the Minister for Planning Part A submission respond to the matters raised in Document 20. Commencing at page 30, the Part A submission (Document 49b) included a response to these questions.

Other parties have the opportunity to respond to any of the matters raised in Document 20.

Parties can also make submissions on other matters they consider relevant, and the Review Panel has at no stage sought to restrict any party from making submissions in relation to any matter, including the Vision and the basis of the population and jobs 'targets' for Fishermans Bend.

The hearing of this matter is scheduled to run for approximately 45 days. The Review Panel is very conscious of not pre-judging any issues at this stage of the hearing. This is particularly so when only part of the case has been heard and when there are many more parties yet to make submissions and present their respective cases.

As stated on 9 April:

*The Review Panel is interested to hear remaining submissions and evidence on the issue, which will form part of its overall considerations and findings in finalising its report to the Minister for Planning.*

The Review Panel welcomes further submissions/evidence to inform its deliberations on these and other matters that the parties seek to make submissions upon.

**Kathy Mitchell**  
**Chair, Fishermans Bend Review Panel**  
**11 April 2018**

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<sup>2</sup> See sections 151,152 (which applies if an Advisory Hearing conducts a hearing into a matter) and other association provisions of the Act as they apply to an Advisory Committee.

<sup>3</sup> The Act provides that section 152 and its related provisions apply if an advisory committee conducts a hearing into a matter.