



Land Use Terms Advisory Committee

Mornington Peninsula Shire Council

Submission

April 2018

1. Are the proposed principles appropriate?

The proposed principles provide clear and straightforward standards for reviewing land use terms. It should be noted that the Mornington Peninsula Shire Council is currently preparing its Green Wedge Management Plan and new land use terms of the loosening of some land use terms could have a resultant impact on the character and/or operation of the Green Wedge that are at odds with the future directions proposed by the Plan. Any change accordingly should be weighed up against the objectives of such Plans to ensure their relevance and indeed long term visions are not watered down.

2. Are there good reasons to change the practice that a land use listed in Clause 74 does not need to be defined, provided it has a well-defined common usage? What are these reasons?

Although certain land use terms are relatively self-explanatory such as Secondary School and Boat ramp ideally it is always helpful, albeit not necessarily essential, to have accompanying definitions.

The Discussion Paper acknowledges that certain uses such as Conference centre, Hall and Hostel are relatively broad could do with more specific definitions. This would be supported and encouraged particularly regarding accommodation uses such as Backpackers' lodge and Boarding house where more detail could be provided regarding the expected lengths of stay.

3. What currently undefined terms should be defined, and what definition do you propose?

As previously noted broader terms such as Conference centre, Hall and Hostel along with Backpackers' lodge and Boarding house would be supported for definitions. Employment training centre could also benefit from a definition to demonstrate where it distinct from Tertiary institution. Likewise, Conference centre and Reception centre could be further defined to demonstrate how they are distinct from one another.

In relation to the above, additional land use terms and associated definitions are requested for the following:

- Cellar door, any definition should require the use to be in association with the manufacture of grape vines and the manufacture of the vineyard products, limited to tastings of wine grown and produced from the subject site on the land, and the sale of only packaged wine produced on the subject site for consumption off the premises.
- Place of public event, such a land use term could be used to define limited special events such as recreational and cultural events, music festivals and the like which only occur for 1 or 2 days.
- Temporary accommodation, this relates to the increase in people leasing or renting short term accommodation, specifically dwellings, through services such as Airbnb. The definition of dwelling requires its occupants to use the building as their primary place of residence or at least occupy it for long periods throughout the year. This creates issues as to what these buildings should be defined as, and it is suggested that consideration be given to integrating short stay accommodation into the dwelling definition or alternatively create a separate specific land use term which captures this scenario.

- An Airfield is understood to be a much lower intensity of use than an Airport, although they share key characteristics. Arguably this distinction is worth recognising through separate land use terms. While it is considered that all proposals for new land use definitions would benefit from further consultation with industry groups and key stakeholders, it is noted in the case of Airport and airfield that these uses are already subject to separate State policies (18.04-2 and 18.04-3) without there being any clear definition of the differences. It may be that Airports are predominantly intended to provide for larger commercial aircraft while airfields are generally limited to light aircraft and that this, together with the average number of flight movements per day - which influences the appropriate approach to aircraft noise modelling, could be a useful basis for different definitions.
- Gym and fitness centre, a definition for Gym and fitness centre, combined with a relevant car parking rate within Clause 52.06 would assist with the assessment of these increasing land uses both within commercial and industrial areas, and ensuring appropriate car parking measures are in place. At present such uses are defined as Indoor recreation facility which do not possess a car parking rate and therefore are at the discretion of the Responsible Authority which provides limited clarity.
- Brewer/micro-brewery as this is currently an undefined term in the Scheme and issues with regard to how much volume of substance brewed on site, food and drink associated, entertainment, car parking and links to hops and barley.
- Glamping and tiny houses, there are currently no regulations and they are difficult to categorise and have significant complications with regard to other provisions.
- Hot springs raises concerns with regard to what is considered ancillary.

4. Is there a need to create specific definitions for land use terms defined in relation to other Acts?

It is not considered essential that land use terms be created when already defined in other Acts.

Council's Planning Compliance team has raised the potential for a more precise definition for Road as at present Clause 62 exempts Roadworks requiring a planning permit which leads to issues such as earthworks in the road reserve.

5. Is there a need to list all land use terms used in VPP zone tables in Clause 74?

If a land use term is included within the VPP zone table it should be defined in order to ensure the intention of the land use can be best understood and applied appropriately.

6. Is there a need to restrict land uses in special purpose zones to terms listed in Clause 74?

As previously discussed, if a land use term is included within the VPP zone table it should be defined in order to ensure the intention of the land use can be understood and applied appropriately.

7. Should unlisted land use terms or activities be able to form part of conditions in land use tables?

Ideally, any land use terms referenced within the planning scheme would be defined but due to the extensive variety of land use terms that would require definition it is considered reasonable to use undefined terms or activities as conditions provided the land use or activity is clear and self-explanatory.

8. Should 'closet plan be updated to 'toilet' in Dwelling?

Yes.

9. How can the definition of Dwelling be changed to clarify the issue of self-containment?

Taking the VCAT case used within the Discussion Paper there may be merit in framing an alternate Dwelling land use term around self-containment being specific to 'to each person' as opposed to being 'for the building as a whole'. In terms of self-containment, there would need to be kitchen, laundry and toilet facilities. With technology a kitchen can be facilitated through minimal permanent fixed appliances accordingly, to make a self-contained building non-compliant it would need to ensure that there are no toilets and bathroom facilities in the individual building or linked to the building.

Consideration could also be given to clarifying the extent of self-containment within a Residential building as opposed to altering the Dwelling land use term.

10. How can the VPP make it clear that a Dwelling is where people live or reside either permanently or for a considerable period of time, but that Clause 52.23 applies?

The intention of this question is difficult to clearly determine. The Discussion Paper raises the question under the banner of short term accommodation and how previously planning approvals have been sought for holiday home uses 'on the erroneous basis that such accommodation is a Dwelling' when Clause 52.23 – Shared Housing could be applied without requiring a planning permit. This has since been placed under threat with the Department of Environment, Land, Water and Planning proposing potential draft provision to result in short term accommodation no longer being subject to the Clause 52.23 exemption.

Confusion regarding the question is as to what context of Clause 52.23 they are seeking consideration in relation to. If it is within the confines of the current provisions then, as previously discussed, VCAT has determined that shared housing could be applicable. If we are to take the considerations of draft provisions into account then the Discussion Paper would advise that short term accommodation is no longer exempt in this scenario.

11. Should Group accommodation be changed to read:

Land, in one ownership, containing a number of self contained buildings ~~dwelling~~s, used to accommodate persons away from their normal place of residence?

Yes, as Group accommodation is not specific to permanent or near-permanent occupation by the same specific individual or group then reference to dwelling should be deleted.

12. Should Rural workers' accommodation be defined? If so, what would its definition be and how should it be treated in zones?

Yes, Residential building is capable of catering for this use and within the Green Wedge Zone. It should be noted that this has a substantial impact on the character and use of Green Wedge areas. The Mornington Peninsula Shire Council is currently preparing its Green Wedge Management Plan and this could be used as a tool by some for additional dwellings in the Green Wedge which may be at odds with the traditional character of the Green Wedge. A Residential building is already limited to being in conjunction with amongst other things, Agriculture, Rural industry or Winery. It does, however, limit accommodation to those away from their normal place of residence which would need to be altered if workers were to be accommodated on a permanent basis or long-term basis.

In areas such as the Farming Zone amendments would also be required in order to shift Residential building from a prohibited use to a permit required. Given a Residential hotel is a permit required use within the Farming Zone it is not considered, provided suitable conditions were applied, that the impact of a Residential building would be too different.

13. What impacts associated with 'glamping' need to be controlled, that are not already under controlled under the Camping and caravan park term?

The current Camping and caravan park land use term is as follows:

Land used to allow accommodation in caravans, cabins, tents, or the like.

Predominantly all enquires or applications received by the Shire regarding 'glamping' (glamorous camping) are specific to tents which are provided on the subject site on a permanent or long-term basis with multiple visitors coming and going. This varies from traditional Camping and caravan parks where those visiting the park bring their own tent for the duration of their stay. However, these parks usually also feature cabins which are located on the site for on a permanent basis in similar manner to tents associated with glamping.

Whilst internal discussion raised issues regarding amenities like communal toilets and showers it is noted that this is not dissimilar from a traditional Camping or caravan park which generally feature such facilities.

Taking the above into account, it is not considered that 'glamping' represents a departure or generates an impact specifically distinct from the existing Camping and caravan park term.

Nevertheless there are no limitations or requirements that lock in areas on site to be used for glamping and its associated facilities. Toilet and other such shared amenities need to be accounted for and this is often neglected in such applications.

14. What changes are required to Retirement village and Residential village, and why?

There may be merit in combining the terms, as raised within the Discussion Paper, provided this does not jeopardise the operation of either use under the *Residential Tenancies Act 1997* and *Retirement Villages Act 1986*. That being said it is not considered an immediate necessity.

If the two terms were to be combined it would be recommended that the definition reference the use containing a number of dwellings like the current Residential village land use term, This would alleviate current issues with Retirement villages in areas such as Low Density Residential Zones where dense multiunit development is able to take place.

15. Can you think of a better term than Agriculture to capture the complete range of nested uses?

No, agriculture is considered to be a suitable term.

16. Should ancillary goods be permitted to be sold in Primary produce sales?

Concern is raised at the potential for ancillary goods to be sold at Primary produce sales. The current definition of primary produce sales emphasises its restriction to the display and sale of produce grown on the land or adjacent land with an allowance for processed goods provided they are substantially made from primary produce. Allowance of ancillary goods such as crackers and bottled water associated with a primary produce of cheese for instance has the potential to cause more confusion regarding what could be considered ancillary. Furthermore, there is the issue of such operations incrementally transitioning to shop. The main concern is what is defined as ancillary and what percentage of the goods sold should be allowed.

17. Should the conditions for Primary produce sales in the Farming Zone, Green Wedge Zone, Green Wedge A Zone and Rural Activity Zone be amended? What should they be?

The current conditions applicable to Primary produce sales in the Farming Zone and Green Wedge are as follows:

Primary produce sales	<p>Must not be within 100 metres of a dwelling in separate ownership.</p> <p>The area used for the display and sale of primary produce must not exceed 50 square metres.</p>
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Whilst the existing condition limits display and sale areas to no more than 50 square metres it is silent on the area reserved for storage of goods associated with the primary produce sales. Although it is inevitable that several sites offering primary produce sales, such as those associated with larger scale farming, could require sizable storage space to store said produce this would only be specific to that associated with the primary produce sales component.

By limiting the sale and display area to 50 square metres there is an intention to limit the impact of the use. Concern is raised that if primary produce sales are undertaken within their 50 square metre area it could be located next to a storage area, of considerably larger area, with convenient access which could easily and ambiguously allow for a potential increased sale and display area.

18. Should Apiculture be removed from the nesting under Animal Husbandry and be nested directly under Agriculture?

Animal husbandry is defined as Land used to keep, breed, board, or train animals including birds. Bees are both insects and animals so it is not considered that Apiculture needs to be shifted from its current nested position.

19. Is there merit in renaming the Animal husbandry terms to make them clearer?

Yes, further distinctions should be made between domestic and non-domestic pets. Additional, consideration should be given to separating commercial and non-commercial operations, specifically in regards to horse stables.

20. Is there merit in dividing Animal husbandry into terms dealing with farmed animals, domestic pets, racing dogs, and other animals? Would the following specific changes help reduce confusion:

- a) **Split the current definition of Animal keeping into Domestic pet husbandry and Racing dog husbandry.**
- b) **Replace the definition of Animal keeping with a broad definition that applies to animals other than farm animal, domestic pets and racing dogs.**
- c) **Rename Animal boarding to Domestic pet boarding and revise it to include domestic pet day care.**
- d) **Move Horse riding school to be nested under Animal Keeping rather than Animal training?**

Yes, it is considered the proposed changes provide an improved clarity in understanding animal husbandry.

21. Why is there a need to define Community garden, and what would the definition be?

It is not considered necessary for Community garden to be defined as it already could be considered under Horticulture. It would, however, be worthwhile defining Community garden if the intention was for the use to be placed in Section 1 – Permit not required of the Residential Zones and Commercial Zones where Horticulture would require planning approval.

22. Should the VPP define Family Day Care and make it as of right where Home based business is as of right for fewer than, say, five children?

Yes, Family Day Care should be defined given Child Care Centre only can be applied if it is accommodating five or more children and the planning scheme is currently silent on child care with fewer than five children.

23. Should Child care centre be nested under Education centre?

No, the definition for Child care centre describes 'land used to care' not educate which is the definition for Education centre.

24. What new Education centre terms are needed and why?

It is not considered there are any land uses outside of the exiting land uses nested under Education. As previously noted, there may be merit in defining Employment training centre to draw a greater distinction from Tertiary institution.

25. Is there merit in defining Brewery, Distillery or Chocolate factory? If there is, how should it be treated in zones?

The ambiguity of where Brewery, Distillery fit within the planning scheme has particular significance to the Green Wedge Zone. Breweries and Distilleries are commonly thought of as coming under the broad Industry land use term on Clause 74. However, Industry is prohibited in the Green Wedge Zone, except amongst others 'rural industry'. Rural industry is defined as follow:

Land used to:

- a) *handle, treat, process, or pack agricultural produce;*
- b) *service or repair plant, or equipment, used in agriculture; or*
- c) *manufacture mudbricks*

Breweries and distilleries have in the past years been approved and proposed as Rural industry under the 'handle, treat, process or pack agricultural produce' component of the land use term. In order to satisfy this definition Breweries and Distilleries have been proposed with an associated agricultural arm such as the substantial hops, grain, orchards and/or other ingredients of the alcohol they wish to produce. The issue with this is determining the extent of the ingredients required and essential to the production of the product. This has created ambiguity both within Council and the Tribunal as to a clear understanding what constitutes rural industry.

To provide greater clarity at least within the context of the Green Wedge Zone a Brewery and Distillery could feature a comparable definition to that of Winery which is:

Land used to display, and sell by retail, vineyard products, in association with the growing of grape vines and the manufacture of the vineyard products. It may include the preparation and sale of food and drink consumption on the premise.

The use of this definition would require the replacement of 'grape vines' and 'vineyard' with the critical and/or substantial ingredient of the relevant alcohol. As to what this is would require greater research, VCAT found in *Rainsbury v Bass Coast SC* [2009] it was not considered that hops alone, despite the proposal supplying 50 to 100% of the hops required for beer production on the land, was so central to the process of making beer. Greater clarity on the ingredients would be critical to ensuring that productivity of agricultural land within the Green Wedge is not unnecessarily wasted.

Using a definition like that previously discussed for Brewery and Distillery would be appropriate for the Green Wedge Zone, however, prohibitive within the Industrial Zone. The requirement that the use be undertaken in association with the growing of key ingredients would not be appropriate within the context of an Industrial Zone where the raw ingredients is delivered from external sources like other manufacturing industries. Instead, for the purpose of the definition the requirement that the Brewery or Distillery be in association with the growing of key ingredients could be removed from the definition and instead placed as a condition within the table of uses for the Green Wedge Zone. This would enable the use to still function within both Industrial and Green Wedge Zones.

Additionally, in order to ensure that the retail and food and drinks components of the definition do not compromise the purpose of the Industrial Zone there may be merit in including a condition in the table of uses restricting these to specific square metre limits.

26. Is there merit in changing Transfer station to read:

Land used to collect, consolidate, temporarily store, sort or recover refuse, ~~or~~ used or surplus materials before transfer for disposal, recycling or use elsewhere?

Yes, as the changes are consistent with those of the Materials Recycling land use where the 'refuse, used or surplus materials' could be transferred to eventually.

27. Is there merit in changing Materials recycling to read:

Land used to ~~collect~~, dismantle, treat, process, store, recycle, or sell, refuse, used or surplus materials?

Yes, as in question 26, the changes improve the consistency between Materials recycling and Transfer station.

28. Should there be a Waste-to-energy facility definition?

Yes whilst there currently is no immediate pressure for such facilities the future as evidenced by practice in Asia and Europe is for such facilities. A definition would allow proper forecasted planning for these types of uses.

29. If there is merit in supporting pod based motor repairs through and new definition and a particular provision? Are there other pod based businesses that may require the same approach?

No, the temporary and movable nature of pod based motor repairs would be hard to effectively control

30. Should Major sports and recreation facility be renamed Spectator sports facility, and Minor sports and recreation facility be renamed Community sports and recreation facility?

No, it is not considered that the immediate understanding of the uses will be much improved as a consequence of these changes and is therefore considered unnecessary.

31. Should Restricted recreation facility be changed to read:

Land used by members of a club or group, ~~members' guests, or by the public on payment of a fee,~~ for leisure, recreation, or sport, such as a bowling or tennis club, ~~gymnasium and fitness centre.~~ It may include food and drink for consumption on the premises, and gaming. It may also include use by members' guests, or by the public on payment of a fee.?

The only component of the existing land use that is completely removed is gymnasium and fitness centre. If these uses are provided their own definition, which would be supported, there is no concern raised.

32. Should the potential overlap between Informal outdoor recreation, Open sports ground and Outdoor recreation facility be clarified? Do you support the proposed clarification?

The minor changes proposed provide additional clarification that is considered reasonable in demonstrating each land use term as distinct from the other.

33. Is there merit in treating shop front style recreation facilities more like shops?

Yes, this would be supported as it will also encourage land uses such as Gyms, Personal Training and Pilates to Commercial Zones where there is generally established car parking infrastructure as opposed to Industrial Zone.

Consideration should be given to the inclusion of conditions in the land use table that require these uses to not detract from active street frontages.

34. Should the VPP list Gym, Pilates studios and Yoga studio in Clause 74, nested under Indoor recreation facility, but not defined?

Yes, as previously discussed, to further simplify the correct application of land uses terms definitions are encouraged. More importantly, such land uses should be specified with Clause 52.06 – Car Parking.

35. Should Dancing school be changed to Dance studio?

This is not considered a pressing issue. As Dancing school is an undefined land use there is even less reason to change the name moderately.

36. Is the indoor–outdoor distinction for recreation facilities causing problems? If so, changes are needed to resolve these problems?

No concern has been raised.

37. Why is there a need to include training in Motor racing track?

It is not considered that Motor racing track needs to specify training in order for it to be permissible under the current land use term.

38. Is there a need to amend the definition of Medical centre, and what precise change is required?

The definition of Medical centre is not considered in need of amendment. The main cause for contention regarding Medical centres instead regards its car parking rate pursuant to Clause 52.06. It is considered that the persons or persons providing health services is ambiguous and does not consider persons working within the Medical centre who do not provide health services such as administrative officers.

39. Should Cinema based entertainment facility be nested under Place of assembly?

As noted in the Discussion Paper, the existence of Cinema and Drive-in cinema within Place of assembly means that Cinema based entertainment facility wouldn't be out of place nested with the other existing cinema related uses.

As an alternative, further consideration should be given whether all three cinema based land uses could be accommodated within the one land use. The definition of this combined use could include the relevant intricacies of each of the three land uses definitions. This would simplify any cause for confusion between the existing land uses.

40. Should the definitions of Cinema and Cinema based entertainment facility specifically exclude a Drive-in theatre?

Refer to response to question 39.

41. Should Conference centre be the head term instead of Function centre?

There seems to be limited difference between either land use term so whether one or the other is the head term does not make much difference.

42. Should Function centre (or Conference centre if it becomes the head term) be updated to read:

Land used, by arrangement, to cater for conferences or private functions, and in which food and drink may be served. It may include entertainment and dancing?

If Function centre or conference centre were to be defined with a land use definition covering both uses there may be merit in removing whatever term is considered secondary.

43. Should Place of assembly, Place of worship and Restricted place of assembly be revised to include "spiritual" activities?

It isn't considered essential that these land use terms be amended to include 'spiritual' activities. That 'cultural activities' are listed within the Place of Assembly and Restricted place of assembly definitions should provide some flexibility in assessing such proposals.

44. Should the Place of worship definition be changed to recognise that some religious or spiritual activities occur in non specific or non denominational buildings?

Where a Place of worship use is granted at a property the extent of the use will apply to the entirety of the subject site not just to the buildings. The need to specify non-specific or non-denominational buildings is therefore not considered necessary and of no real merit.

45. Should Live music venue be listed in Clause 74, and if so how would it be defined?

Yes, its definition could refer to the provision of entertainment and live music and include the sale and consumption of liquor on the premise.

46. Should a definition for Solar farm, based on the current definition for Wind energy facility, be included in Clause 75?

Yes.

47. Should the VPP list Bar in Clause 74 and nest it in Tavern without a definition?

Yes, it is considered that Bar should be listed within Clause 74 but it is recommended that it feature a definition so as to differentiate it from Tavern.

48. Should the VPP list Café in Clause 74 and nest it in Convenience restaurant without a definition?

The addition of a Café land use term would help fill a gap between Food and drink premises, Convenience restaurant and Restaurant as to where such a use within the current land use terms would best sit. The most significant implication on this use would be on car parking and it would be recommended that if introduced it correspond with the provision of a minimum car parking rate in Clause 52.06 – Car Parking.

Given the term Convenience restaurant is more synonymous with fast food chains in order to provide clarity regarding terms there may be merit in Café adopting the Convenience restaurant definition and taking its position within Clause 74 and 75. As a consequence of this Convenience restaurant could in turn be nested under Café.

49. Is it appropriate to change the definition of Take away food premises to allow for a certain number of table or seats? What number?

No, the definition should not include tables or seats. It is instead considered that if such premises began to include tables and seats they would simply no longer be considered a Take away food premises and instead become a Restaurant or Convenience Restaurant.

50. What is the best way to cater for small arts venues in Clause 74:

- a) Don't change anything
- b) Create a definition of Arts venue and nest in Place of assembly
- c) Create definition of Arts venue and nest under Tavern
- d) Something else?

There is no need to change the existing land use terms to accommodate for small arts venues as Place of Assembly includes references to 'cultural activities'.

51. What would be an appropriate definition for small arts venue?

If it was considered that a small arts venue was necessary its definition could specify that regards arts and performance for entertainment and cultural purposes.

52. Is there merit in amending Shop to include:

It includes demonstrations of products including music performances in shops selling recorded music.

No, it is not considered that music performances in shops selling recorded music is an emerging or prominent use that requires detailed definition.

53. Is there merit in amending Shop to include:

It includes the selling of food products prepared on premises

For further clarity there is no opposition to the addition of the proposed sentence regarding prepared products. However, in relation to Shop, comment is raised as to its purpose in the planning scheme at all given it features a very similar definition to Retail premises which it is nested under. Whilst it does exclude uses that are otherwise listed under Retail premises it is uncertain as to why the terms listed under Shop could not simply be located directly under Retail Premises alongside Food and drink premises, Manufacturing Sales or Trade Supplies.

Shop		Adult sex product shop	Retail premises
	Land used to sell goods or services, or to hire goods. It includes the selling of bread, pastries, cakes or other products baked on the premises. It does not include food and drink premises, gambling premises, landscape gardening supplies, manufacturing sales, market, motor vehicle, boat, or caravan sales, postal agency, primary produce sales, or trade supplies.	Beauty salon Bottle shop Convenience shop Dry cleaning agent Department store Hairdresser Laundromat Restricted retail premises Supermarket	

Retail premises	Land used to: a) sell goods by retail, or by retail and wholesale; b) sell services; or c) hire goods.	Food and drink premises Gambling premises Landscape gardening supplies Manufacturing sales Market Motor vehicle, boat, or caravan sales Postal agency Primary produce sales Shop Trade supplies
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54. Should the VPP list Day spa, Massage parlour, and Animal grooming in Clause 74 nested under Shop, but not defined?

Yes, the significant issue is when these uses become or are proposed as ancillary for example winery with ancillary day spa and yoga studio, whilst they are attractive they are not agricultural and can detract from the purpose of the zone. Accordingly if they were deemed to be appropriate as ancillary there needs to be floor space limits, patron number limits, and hours of restriction and having it operate as a separate land use to the main functions of the site.

55. Should 'remote controlled equipment' be added to Restricted retail premises?

It is agreed with the Discussion Paper that Restricted retail premises would already encompass 'remote controlled equipment' compromising the necessity for its inclusion. However, if Model and Hobby Shops selling such equipment are facing repeated enforcement action due to it not being specifically stated within the definition then its inclusion in the land use term may be merited.

56. Should Railway be defined as an unnested term and include Railway station?

No, such a definition is not considered necessary.

57. What is the appropriate definition for Road?

Generally, the definition for Road has been considered to be that as contained within the *Road Management Act 2004*.

As previously discussed, Council's Planning Compliance team has raised the potential for a more precise definition for Road as at present Clause 62 exempts Roadworks requiring a planning permit which leads to issues such as earthworks in the road reserve. They have advised of preference for a greater distinction between roads on public and private land and a distinction between the road and road reserve.

58. Is it appropriate to delete Heliport?

Yes, it could be incorporated into the Airport land use term, noting that there are differences in the way in which a heliport operates and the way in which projections of future noise impacts are assessed that should be addressed by the land use term airport should it be used if heliport is deleted.

59. What specific limit should be placed on pumping stations in Minor utility installation?

A more precise limit would be supported as it provides a clear distinction between Major and Minor utility installation.

60. Is there merit in making it explicit in the VPP that no permit is required for water extraction? Are development controls needed?

Council's experience with this topic (eg Hot Springs water allocations) we have had to make it clear to all parties that this is not a permit consideration but governed by the relevant water authorities. In many instances the it has been the water authorities that are unclear what the planning application can deal with, with respect to water rights. Accordingly, Council has had to include conditions on permits issued to the effect of "no development or use may commence until the relevant approvals have been obtained from the water authorities".

61. Is there merit in introducing a particular provision to specify building and works requirements for a Minor utility installation similar to 52.19 Telecommunications facility.

There may be merit in a particular provision if there is further relevant documentation that requires consideration such as a code of practice. If there is no further information that is required to be considered before a decision can be made then a particular provision may provide little additional value.

62. Is there merit in introducing a definition of Contractors depot and allowing the temporary use of land for a Contractors depot in certain circumstance?

The use of Contractors depots has been a long-standing issue for both planners and planning compliance officers. Contractors depot raise numerous concerns regarding noise, hours of operation and the number of people coming to and from the site throughout the day. In more sensitive areas such as the Green Wedge Zone or Residential Zones their existence can be disruptive. The lack of definition within the planning scheme results in the land use becoming as innominate use and therefore is not restricted or prohibited in relation to where it can be proposed from General Residential Zone to Industrial Zone to Green Wedge Zone. This consequently limits the ability to limit the extent of the activity throughout the Mornington Peninsula.

A temporary Contractors depot could be considered; however, it would need to have specific definitions regarding what constituted temporary.

63. Should the VPP list Self-storage facility in Clause 74 nested under Store, but not defined?

Yes, but if it is nested it would be recommended that a land use definition be applied to provide clarity in its application.

64. Should Car park include:

It may include charging of electric vehicles?

This appears to be a reasonable proposition, however, caution may need to be undertaken to ensure car parking spaces are reserved for specific charging purposes not undermining the intention behind providing a Car Park as the predominant land use.

65. Is there merit in defining Display village, and what should it include?

Yes, a display village land use term would only require a moderate alteration to the existing Display home land use definition.

66. Is there merit in defining a use aimed at capturing pop up galleries or shops? If so what should it include, and what limits should be applied?

No, the result of defining pop up galleries and shops has the potential to stifle their use due to the additional timeframes required to go through the approval process. Furthermore, these pop up uses are generally restricted to areas where such uses would be as of right uses.

67. What practical implementation issues should the Committee consider?

The main points that implementation will need to address is to ensure that should new land uses be added or existing uses be altered that they are not inadvertently permitted where previously they were prohibited and vice versa.

Altering existing land use terms will also require transitional provisions to ensure existing planning applications lodged before any change but still not yet determined are not prevented in certain circumstances.